

A
Background Paper*
on

***BARRIERS TO INTER-STATE TRADE AND COMMERCE – THE
CASE OF ROAD TRANSPORT***

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“Roads really should be thought of in terms of the romance connected with them, that makes them more interesting; the “Silk Routes” right across Asia, through which Marco Polo travelled and so many others”.

Jawaharlal Nehru, 1961

Chapter 1: Introduction

1.1 The free flow of trade, without geographical barriers, is a *sine qua non* for economic prosperity, nationally as well as internationally. The European Union has accordingly removed barriers among countries. It is time that India removed barriers within the country.

1.2 The Indian polity has a federal structure. But an arrangement is necessary to ensure harmonization and facilitate inter-State trade and commerce without hindrances. Hence, inter-State trade and commerce and some elements of intra-State trade and commerce are a Central responsibility. For example, Part XIII (Articles 301 through 307) is devoted exclusively to trade and commerce. Several other matters, incidental or necessary to trade and commerce, are also a Central responsibility, through exclusive or concurrent jurisdiction. Articles 14 through 19 also have a link with trade and commerce. The regulation of inter-State trade and commerce is assigned to the Centre primarily to ensure that inter-State rivalries and competition do not lead to tensions and constraints. While there is a general declaration in the Indian Constitution that trade and commerce should be free, the Centre and the States (especially the former) have the power to regulate. This is unlike countries like Australia where inter-State trade and commerce is free and the government has no regulatory powers.

1.3 The Indian business environment should reflect a seamless flow of inter-State trade and commerce. This doesn't happen. Complaints from Indian industry, especially the transport sector, relate to issues of taxation (both Centre and State), regulation by States on the movement of goods, frequent stoppages and delays under administrative rules and inspection agencies. As a result of excessive taxation and delays, transportation and transaction costs increase, which further increase the final cost of the product, distorting competition in the domestic market. Most complaints concern the road sector, which is primarily in the private domain. Railways are a different proposition and are not the concern of this paper. But incidentally, similar complaints also emanate from inland waterway operators, although these account for a negligible share of surface transport.

Chapter 2: Road Infrastructure

2.1 India has one of the largest road networks in the world, although this should be normalized for geographical area, size of the economy or population. This sufficed, although till the middle of the 19th century, most transport of goods and passengers was through rivers and roads. After the introduction and development of the railway network, roads lost their importance, till the first quarter of the 20th century. But the First and Second World Wars emphasized the need for better connectivity, networks and well-maintained roads because of the presence of automobiles. After Independence, inadequate development of railways and warped railway tariffs increased the importance of the road sector even more.

2.2 The country's total road length is over 2.1 million km, with three components.

- (i) Primary road system with National Highways;
- (ii) Secondary and feeder road system with State Highways and major District Roads; and
- (iii) Rural roads, including village roads and other District Roads.

2.3 There is an urgent need to upgrade the road system in the country by widening and strengthening existing highways, reconstructing/widening bridges and constructing expressways. While the government has provided increased budgetary allocations for projects in the highway sector and has undertaken major upgradation initiatives in high-density corridors, it has not been possible to allocate sufficient funds because of competing demands. Inflow of private sector funds is possible in limited areas, where user charges can be recovered.

2.4 The existing high-density roads are gradually getting over crowded with the local traffic of towns, thereby requiring frequent bypasses. The NH (National Highway) networks are now designed to carry only long distance traffic. For local traffic, the focus is shifting to the use of side-road facilities. Besides, there is a very serious problem of overloading of vehicles. Two axle commercial vehicles carry double the

permissible load with the connivance of road transport authorities. This leads to huge corruption of about Rs. 20,000 crores every year and also results in reduction of design life of pavements by 30 to 60 per cent. The government ends up spending much more on maintenance. Bad roads cause reduction in average speed of vehicles by 20 to 30 km per hour, leading to an estimated loss of Rs. 20,000 to 30,000 crore every year^[1].

Chapter 3: The Angle of the Constitution^[2]

3.1 Constitutional provisions need to avoid inter-State rivalries and tensions. The European Community came into existence with a focus on allowing free movement of goods^[3]. Initially, the coverage of goods was limited. But the benefits of free movement motivated broadening of the coverage until we now have not only a common market, but an economic union.

3.2 While the need to avoid inter-State barriers was anticipated in the Indian Constitution and judicial pronouncements have protected free movement rights, a Constitution drafted many years ago couldn't have anticipated all the issues that could arise fifty years later. Article 301 uses expressions like trade, commerce and intercourse, and throughout the territory of India, but there remains scope for interpretation.

3.3 The Indian Constitution borrowed the expression "intercourse" from the Australian Constitution. Section 92 of the Australian Constitution says, "the imposition of uniform duties of customs, trade, commerce and intercourse among the States, whether by means of internal carriage or navigation, shall be absolutely free". The wording used in Article 301– "throughout the territory of India" allows a State legislature by law to "impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest"^[4]. This wording is wider than the expression "among the States", used in section 92 of the Australian Constitution or "among the several States" used in Article 1, section 8, clause (3) of the Constitution of the United States.

3.4 Constitutionally, legislative power relating to trade and commerce is restricted, in the first place, by Article 14 of the Constitution, which guarantees equality before the law and equal protection of the laws. Secondly, Article 19, *inter alia*, guarantees to every citizen the right to carry on any trade, business or profession, subject to reasonable restrictions, which may be imposed in the interest of the general public. It is not merely an element of discrimination (between one group and another) that is material. The restriction must also be reasonable and in the interest of the general public. Articles 301-304 are further indications of restrictions on the legislature or executive.

3.5 Restrictions on Parliament's power (Article 301) begins this group of articles by stating that subject to the other provisions of this Part of the Constitution, trade, commerce and intercourse throughout the territory of India shall be free. The very next article – Article 302, authorizes Parliament to impose, by law, restrictions on the above freedom in the public interest. Although Article 302 does not require that the restriction must be reasonable, that requirement follows (by judicial interpretation) from Article 14 and (by express provision) from Article 19(1)(g)^[5], read with Article 19(6). Parliamentary power under Article 302 is also subject to the restriction imposed by Article 303(1). This prohibits the enactment of any law (by Parliament or State legislature) which gives preference to one State over another or a law discriminating between one State and another by virtue of anything relating to trade and commerce in the legislative lists. This can be compared to section 99 of the Australian Constitution, which provides "The Commonwealth shall not, by any law or regulation of trade, commerce or revenue, give preference to one State or any part thereof over another State or any part thereof"^[6].

3.6 Under Article 303(2), of the Indian Constitution, however, the restriction referred to in the above sub-paragraph can be relaxed by Parliament through law, for dealing with a situation arising from the scarcity of goods in any part of India.

3.7 Indian States are empowered to legislate on trade and commerce for subjects under the State list, entry 26 (subject to the Concurrent list, entry 33). However, the words of Article 301 cover trade and commerce, within the State also^[7]. Article 302 is not relevant for States. But Article 303(1) declares that

neither the State legislature nor Parliament shall have power to make any law, giving or authorizing the giving of any preference to one State over another or making, authorizing or the making of any discrimination between one State and another by virtue of any entry relating to trade and commerce in any of the lists in the Seventh Schedule. Article 303(2) is not relevant to the power of States.

3.8 Article 304, clause (a), provides that a State legislature may, by law, impose on goods imported from other States or the Union Territories any tax to which similar goods manufactured or produced in that State are subject. However, this must not discriminate between goods so imported and goods so manufactured or produced. This article permits State legislatures, by law, to impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State, as may be required in the public interest. At the same time, under the proviso to Article 304(b), no Bill or amendment for the purpose of Article 304(b) shall be introduced or moved in a State legislature, without the prior sanction of the President.

3.9 Article 304(b) applies only if the restriction is reasonable. Courts have held^[8] that the test of reasonableness is the same as that applied under Article 19(6). Further, it is the State that carries the burden of establishing the reasonableness of the State legislation in question^[9].

3.10 Article 19(1)(g) of the Constitution confers, on all citizens, the right to practice any profession or to carry on any occupation, trade or business – though this right is subject to Article 19 (6). In fact, it is in consonance with the provisions of Article 301. There is some overlap between Article 19(1)(g) and Article 301, but some points of difference between the two are as follows –

- (i) Article 19(1) (g) is confined to citizens, while Article 301 is not.
- (ii) Article 19 (1) (g) refers to “profession, occupation, trade or business”, while Article 301, speaks of “trade, commerce or intercourse”.
- (iii) Article 19(1) (g) does not contain the words “throughout the territory of India”, which occur in Article 301. In this sense, Article 19(1)(g) may be relevant for international trade also. Article 301 may not be construed to apply to international trade.
- (iv) Article 19(1) is subject to the provisions of Article 19(6) (which permits the State to impose certain types of restraints). Article 301 is not so subject, though it is very likely that it will be construed as so subject (on the principle of harmonious construction).
- (v) Article 19(1) (g) confers a fundamental right (on citizens). In contrast, the right conferred by Article 301, though a constitutional right, is not a fundamental right.
- (vi) Article 19(1) (g), though it is subject to Article 19(6), is not made subject to any other express qualifications. But Article 301 is made subject to Articles 302 to 307.
- (vii) Article 19 is primarily intended to restrict legislative or executive action, but has no direct relevance to the concept of federalism. In contrast, Articles 301-307 have a direct relevance to the concept of federalism. Of course, this does not imply that Article 301 is confined to federal controversies. Its possible scope can be much wider.
- (viii) For the reason mentioned earlier, in many proceedings invoking Articles 301-307, disputes can arise between the Union and a State, or between States, - thus attracting Article 131 of the Constitution. In contrast, in cases under Article 19(1)(g), the controversy will be normally litigated between the Government and a citizen.

Chapter 4: The Indian Trucking Industry

4.1 In the post-Independence period, the rail dominated economy has become a road dominated one. In 1950-51, railways carried 89 per cent of total goods traffic and roads carried only 11 per cent. Recommendations of various Committees to determine modal shares of rail and road in respect of both passenger and freight traffic have gone awry. For example, the National Transport Policy Committee (NTPC) in its report submitted in 1980 had recommended that at least 67 per cent of freight traffic should move by rail by the turn of the century.

4.2 The growth of road traffic is evident from the growing number of trucks over the years. The number of goods vehicles was 82 thousand in 1951 and 3.43 lakh in 1971. But it increased to 13.56 lakh in 1991 and 22.60 lakh in 1996-97. Estimates made by the Asian Institute of Transport Development (AITD) project a doubling in the number of trucks in another ten years^[10].

4.3 However, data on vehicles actually plying on roads are not available. As per the RITES study on Road Traffic Flows (1998), the number of trucks was expected to rise to 26.90 lakh by the turn of the century and to 28.70 lakh by 2005. The Working Group on Road Transport for the Ninth Five-Year Plan has also made similar projections. Their projections are based on the trend data for 1966-96 and the assumption of differential growth rates (6 per cent, 6.5 per cent and 7 per cent). While light commercial vehicles (LCVs) are projected to increase to between 1 and 1.4 million by 2002 and between 1.7 and 3.1 million by 2007, heavy commercial vehicles (HCVs) are estimated at between 2 and 2.5 million and between 2.8 and 4.2 million, respectively. At present, a figure of 1 million for LCVs and 2 million for HCVs is a safe bet.

4.4 The Working Group on Road Transport for the Ninth Five-Year Plan (1997-2002) estimated that the freight traffic will be in the range of 1276-1700 billion tonnes-km by the terminal year of the plan and it was likely to be in the range of 2054-3480 billion tonnes-km by 2007. The shift in freight movement from railways to roads has taken place despite rail's advantages in terms of bulk freight movement, carrying potential, and economical land.

Reasons Favouring Road Transport vs Railways

- The rating policy of railways is commodity-based and, for certain commodities, like iron and steel, cement, freight rates by rail are more than that by road. Cross-subsidization of passenger traffic distorts railway tariffs.
- Change in the nature of goods moved. It is not raw material alone, but semi-finished goods that are also placed on longer hauls.
- Centres for production of major bulk commodities like fertilizers, POL, steel are now spread throughout the country. This has resulted in reduction in lead for movement of these commodities.
- Railways discourage less than trainload. Moreover, only end-to-end through running of freight trains meeting rake-load movement of bulk commodities are given preference.
- Trucks are more easily available than railway wagons.
- Railways lack flexibility in movement and do not provide door-to-door service.

4.5 It would be in the national interest that the share of traffic by rail should increase. This should be possible through a combination of appropriate measures such as transport pricing, taxation and other instruments and comprehensive reform in the functioning of the railways. But this does not mean that roads will become unimportant. With the diversification of the economy, the share of high value low volume traffic is bound to increase. This traffic's needs have to be met by roads of high quality and efficient inter-modal container services (rail for line-haul and road for feeder services). Thus, there is immediate need to promote multi-modal transport so as to optimize investments and improve overall distributive and transport efficiency^[11].

The Structure of the Trucking Industry^[12]

4.6 At present, there is no regular arrangement for the collection of data relating to trucking operations. The structure of the trucking industry can be studied as a system consisting of truck operators, intermediaries and users. The structure is adversely affected by factors like nature and cost financing, vehicle technology, absence of wayside amenities, road condition, detention of vehicles involving additional fuel cost, increase in turnaround time leading to under-utilization of vehicles, and the legal framework (provisions of the Motor Vehicles Act, the Motor Transport Workers Act, the Carriage of Goods Act, etc^[13]). There is ease of entry and exit from the trucking industry as compared to other sectors. There is no scheme for registration of transport operators. Large transport companies are registered under the Partnership Act or the Companies Act. The Motor Vehicles Act only mandates registration of vehicles by owners and obtaining a permit for operation. There are no provisions for qualitative aspects, such as professional competence, financial standing, good reputation, etc., essential requirements in countries like UK and USA.

Ownership Pattern

4.7 The majority of goods transporters are small operators owning one or two trucks. In a few cases, these operators own between 5 to 10 trucks. The trucks are not registered in one name, presumably to avoid income tax obligations and labour legislation. Another aspect of the industry is the dependence of transporters on booking agents and intermediaries. Small operators are involved only in the physical movement of goods and depend on booking agents and other fleet operators/transporters for obtaining business. Some of them are attached to major transport companies, brokers and vehicle suppliers. As a general practice, small operators do not come into direct business contact with users.

4.8 The AITD survey in 1998 reveals that the structure of the trucking industry is skewed. This ownership pattern clearly confirms that small operators continue to dominate this industry. However, an interesting feature observed during the survey is that very few operators admit of owning even up to six trucks. While the same person may expand his fleet by acquiring additional trucks, he prefers buying these additional vehicles and applying for loans in the name of another person. This is mainly done to avoid the application of the Motor Transport Workers Act. Another reason for the dominance of small operators is the type of experience in business. Most operators in this industry are in their family business - 56 per cent of truck owners surveyed have been in the business from 1 to 10 years, 30 per cent from 11 to 20 years and 15 per cent for over 20 years.

4.9 Classification of truck operators is possible on the basis of spread and extent of operations into local, regional and national carriers. Another classification can be on the basis of fleet sizes owned by them, for example, small truck operators (< 5 trucks), medium-sized operators (6-50 trucks), and large operators (> 50 trucks). The survey also revealed that medium and large sized operators charter trucks to the extent of 10 to 12 times their own fleets. They get these either through lorry suppliers or directly from single truck owners. Some fleet operators encourage their own employees to become owners of trucks by providing financial assistance, subject to the condition that vehicles should be permanently attached to companies. In terms of goods assignment notes (GCN), these currently account for as much as 87 per cent of the business. Large fleet operators have a network of branches in various cities, resulting in a major market share. The survey revealed that big fleet operators handle about 12-15 per cent business in their own trucks and the balance is handled through hiring trucks from small operators. The dominance of small operators in the trucking industry is a negative aspect, because of low economies of scale.

4.10 Given the fragmented nature of the industry, achieving economies of scale is difficult. With the objective of improving productivity, the government set up various committees from time to time. These committees included the Study Group on Transport Planning (1955), the Committee on Transport Policy and Coordination (1966) and the Study Group on Viable Units (1967) among others. A specific commonality is the adverse impact of ownership pattern on productivity in the recommendations of most committees. Most committees considered a single truck firm as a non-viable firm, suggesting horizontal

and vertical integration of operators into registered associations and cooperative societies for availing common facilities of servicing, repair and maintenance.

Driver Pattern

4.11 There are about 4.4 million truck drivers in the country, the majority of them operating as an unorganized lot. Very few transport operators admit of owning even up to six trucks to avoid the application of the Motor Transport Workers (MTW) Act. The root cause for violation of the law is that 77 per cent of truck owners are small operators. These small operators do not come under the purview of the MTW Act because Section 3 of the Act explains that the provisions of the Act are applicable to employees of only those motor transport undertakings that employ five or more motor transport workers. Since most are small operators, these operators are registered under the Shops and Establishment Act. Around 13 per cent of owners either drive the vehicle themselves or engage drivers. But a majority of owners hire a driver to drive the vehicle.

4.12 Contrary to common belief, a recent survey has revealed that 80 per cent of drivers are literate^[14]. Most of them were aware of road safety, fuel efficiency and health considerations. Despite clear rules and regulations laid down in the MTW Act, legislative provisions have been consistently violated.

- ◆ 66 per cent of drivers drive continuously for more than 9 hours a day; 20 per cent of drivers drive for more than 12 hours a day. Only 30 per cent of drivers drive for 5-8 hours continuously a day.
- ◆ Between two driving spells, only 6 per cent of drivers take rest for more than 8 hours. In all cases, one driving spell is equivalent to 72 hours or more.

4.13 Given the rising population of trucks on the roads, it is evident that the total number of truck drivers will double in the next ten years. In spite of this, there is no perceptible change in the working environment of a truck driver. The frequency of a driver returning to base is quite low for most drivers. A survey conducted in 1998 showed that more than 21 per cent of drivers returned to their base only after eight days of duty. About 47 per cent of drivers returned to their base after 5-8 days of duty, 19 per cent after 3-4 days. Only 12 per cent returned to their base in less than two days.

4.14 Truck owners and transport companies have shown little regard for the usual norms of working hours prevalent in most industries. In developed economies, there are clearly laid down laws that prohibit any heavy vehicle driver to remain at the wheels for more than 4-6 hours. These norms have been framed not just to ensure that the driver gets a decent break and rest from his work, but also to make sure that road safety norms are honoured. A driver also performs a multiple role for operators. He often acts as the supervisor of loading and unloading operations. Under pressure from the owners, overloading becomes a common phenomenon, along with other violations. The driver's other job (besides driving) is to act as wheeler and dealer on behalf of the operator with various official agencies on the way, for example RTO, DSO, forest officials, tax checkpost, etc. Often, the driver also attempts to locate a load on the return journey. Around 44 per cent locate the load by themselves, probably because they do not want to pay the commission to brokers for getting the load^[15].

Intermediaries Pattern

4.15 The trucking industry has a number of intermediaries who play a useful role in the provision of efficient transport services. These include booking agents (also called transport suppliers or transport contractors) and brokers. These players basically perform the function of middlemen for truck owners. While the broker is a person (or a group of persons) who takes commission from truck owners and ensures the supply of trucks to the transport contractor, the booking agent engages in the business of collecting, forwarding or distributing goods carried. In addition, some of these agencies also provide finance and godown facilities. They usually operate from port project sites and mega-production centers. To cater to this type of road transport, many of the conventional transport companies have created a separate division, namely 'contractor division'. Transport contractors and contractor divisions compete among themselves to acquire contracts for transportation of cargo of major consignors. The survey conducted by CIRT in 1998 revealed that around 44 per cent of small operators themselves take up the

multiple role of a transporter, broker and booking agent. This is done to save on commission due to these agencies and reduce the cost of operations. Booking agents/transport contractors and brokers are at present an unregulated lot. These players determine freight rates to a large extent and act as powerful agents of the trucking industry. There exists no code of conduct for their modus operandi.

4.16 Economists will consider the prevailing situation as one that comes close to perfect competition, since there is a large number of producers of trucking services and none of them is big enough to influence the price line. But as a matter of fact, freight aggregators and their agents influence prices the most, because they alone have the financial resources and market information necessary to influence the price line. The transport contractors quote and settle freight rates with consignors. These are negotiated rates and are valid for a given period of time. Truck owners depend on brokers, who have day-to-day arrangements with them, for obtaining goods for transportation. Brokers arrange the goods for truck owners from booking agents at the prevailing market rates, for which they charge their brokerage, which ranges from Rs. 200 to Rs. 400 per vehicle per trip. It has been observed that freight charges paid to truck owners have no relationship with the type and load of freight arranged through brokers. Brokers and booking agents settle the freight rate at which the truck owners operate.

4.17 It has also been observed that in certain cases, there is an agreement between a broker and a truck owner for a stipulated period, during which the former arranges guaranteed freight at rates fixed in advance. The payment of freight charges to the truck owner is done in two parts, namely, 20-30 per cent for gross freight charges if paid before commencement of journey and 70-80 per cent after delivery of cargo, called '*pahunch*' in common transport parlance. This is an acknowledgement of receipt of goods by the consignee recorded on the document (bill/invoice) issued by the transport contractor at the point of origin. The '*pahunch*' may be paid either at the destination or, in certain cases, at the originating point, on return^[16]. A study undertaken by Indian Foundation of Transport Research & Training (IFTRT) on truckers revealed that while in 10 per cent of cases, payment of balance freight charges is made promptly to the owner on submission of '*pahunch*', 70 per cent of cases suffer delays. It is also reported that at the destination points or nearby, some of the transport contractors have set up their own separate windows, where they provide instant cash to truck owners on payment of certain amount as discount. The persons engaged in discounting '*pahunch*' are called Angarias. It is reported that Angarias collect around Rs. 200 to Rs. 600 on a freight amount of Rs. 10,000 for 15 days to 60 days, depending upon the credit rating enjoyed by the transport contractor.

4.18 The majority of brokers have been in the business for more than eight years and are sole proprietors, indicating that new entrants are few in number. This business has developed as a family business rather than as organized industry. As regards the level of education of brokers, the survey indicates that 64 per cent of brokers are educated up to matriculation level and only 36 per cent are graduates. This low level of education is responsible for lack of professionalism in the business. Around 45 per cent of brokers ensure the transport of goods on faith only. But nearly 35 per cent will give the loads only to known truck operators, which clearly underlines informal relationships in the trucking industry. On the other hand, truck owners also approach brokers for truckloads without any written agreement. Brokers claim that their role in providing rest rooms, vehicle parking facilities and liaison with enforcement authorities is valuable. But the survey result contradicts such claims, as drivers do not actually get these facilities. The role of brokers is limited to locating loads, fixing freight rates and ensuring cash advance against freight charges.

4.19 In the perception of brokers, there should be legislation for timely payment and penalties for delay in payment. While 46 per cent of brokers said that they did not face any problems from truck owners, 42 per cent complained that there were problems of delays in delivery. The commission to brokers is paid either as a fixed sum or a fixed percentage of freight charges, depending upon the agreement with the truck operator.

Other Issues Influencing Industry Structure

Other Factors Influencing Industry Structure

- The Carriers Act
- Outmoded laws on trucking
- High cost of financing
- Wayside amenities
- Technological changes
- Vehicle detention - Monitoring & check
- Vehicle detention - Taxation obligations

4.20 The Carriers Act lays down the liability for loss of or damage to goods caused by negligence of the carrier or fraud of his servants/agents. It is well known grievance of the truck industry that highway safety and security have deteriorated due to the poor law and order situation in the country. Besides, mafia networks operate in connivance with local authorities for safe passage in their territory. 'Chakka Jaam', bandhs and civil disturbances have become too frequent. Instances of vehicles being waylaid and robbed have increased over the years. The ambiguous definition for 'loss of or damage to the goods caused by negligence of the carrier' in the Act further adds to the woes of truck operators.

4.21 Laws related specifically to the trucking industry, including provisions of the Motor Vehicles Act, are outmoded and do not meet the demands of a modern economy. The provisions of MTW Act regulate hours of work of any person engaged in operating a transport vehicle. For example, Section 91 of the Act provides for 8 hours of work for drivers, which according to many studies and safety practices in developed countries, should be 4-6 hours. Moreover, poor enforcement of such rules and long working hours without rest in the trucking industry is a common phenomenon, endangering road safety. Lack of coordination between the Labour Department, responsible for implementing the MTW Act and State Transport Departments is responsible for poor implementation. Further, the MTW Act is applicable only when the undertaking employs 5 persons or more. Under the present ownership pattern, a major section of truck operators are outside its jurisdiction.

4.22 High cost of financing is a major problem. Funds are available to Small Road Transport Operators (SRTOs) under the priority sector lending scheme of commercial banks and public financial institutions. Under this scheme, truck operators owning less than 10 trucks can obtain finance, generally for purchase of chassis, at reasonable rate of interest. But truck operators face a variety of problems in bank financing. Banks are hesitant to lend because of the fear of default in repayment of loan; no loans are given for meeting working capital requirements or financing used vehicles or even for body-building. The repayment period is short, ranging from three to four years. Margin money requirement ranges between 25 and 40 per cent. Such policies in bank financing benefit the relatively richer transport operators, who are in a position to contribute margin money from their own resources and are capable of meeting working capital requirements. On the other hand, small operators depend on private financing with high rates of interest, which in the long run, increases operational costs of trucks^[17].

4.23 There are no organized wayside amenities, maintenance and repair facilities and parking spaces along highways. Indiscriminate parking of trucks on highways and on carriageways of towns and cities, encroaches upon space reserved for pedestrians, as well as for moving vehicles. To address this issue, the government sponsored the Truck Operators Highway Amenities Society (TOHAS) and introduced the Passenger Wayside Amenities Scheme. But these initiatives had to be shelved due to the lack of necessary support from state administrations and lack of response from truck operators. Besides resting facilities, trucks also need a terminal where the journey may commence or end and prepare for the next assignment. Saxena (1999, 2000), among many others, has mentioned that absence of truck terminals has resulted in on-street handling of goods and parking, creating further congestion in urban centres.

4.24 Vehicle detention is the greatest malaise for the trucking industry. Smooth flow of goods carriage is hampered by frequent stoppage of vehicles for a variety of reasons. For example, vehicle detention can be due to trucking operations or goods carried in the truck, or both. Trucking operations cover a wide range of areas, like inter or intra-State permits, road tax, load checks, local police check post, etc. But the more serious and time-consuming detention is on account of goods carried in the truck. Vehicles are

frequently detained for checking essential documents, like sales tax, octroi, entry permits, etc. Besides, there are numerous other reasons under different legal provisions that can detain a vehicle, like check on the movement of essential commodities, black marketing, weights and measures, food adulteration and hazardous chemicals. These checks are generally conducted by respective agencies at separate points, resulting in more than one detention. At the same time, there exist flying squads or surprise checking teams other than normal checkpoints, which are empowered to stop and check the vehicle at any point within their jurisdictional limits and detain the vehicle for any violation^[18]. Detention of vehicles causes loss of time, high fuel consumption and idling of vehicles, leading to under-utilization of transport capacity and adversely affecting operational viability.

Vehicle Detention

Trucking Operations

- **RTO Checkpost:** Documents related to truck, Permits, Road tax, Load requirements.
- **Police Checkpost:** Driving offences, Maintaining traffic safety, Law and order.

Goods Related-Checkpost

- **Sales Tax**
- **Octroi**
- **Entry permit**
- **District Supply Office**
- **Forest Produce**
- **Tolls**

Others

- **Checking by Flying Squads of any agency**
- **Movement of essential commodities**
- **Miscellaneous checks by respective authorities**

4.25 It does not help that the road network suffers from poor road geometry, weak and narrow bridges, frequent access from side roads to main roads, congested city sections, poorly designed road intersections and existence of level crossings.

Chapter 5: Travails of Trucking

5.1 The story of an Indian truck driver is one of neglect. The truck driver is neglected from all quarters - his immediate employer, various government agencies he has to deal with on the road, even automobile manufacturers who produce the truck he drives. Compare his role with his counterparts like the engine driver or pilot. Yet he is regarded as an incarnation of Lord Yama on the road by many fellow travelers, because of his past record of fatalities.

Chilling Statistics

- Trucks are responsible for 30 per cent of total accident fatalities, though they form only 5.2 per cent of the vehicle population.
- Around 36 per cent of truck accidents occur during normal sleeping hours.
- May and June are the most accident-prone months and more truck accidents occur during the summer season as compared to the winter season.

- Head-on accidents, followed by rear-end collisions, form the largest percentage (70 per cent) of truck accidents.
- Nearly 50 per cent of accidents involving trucks occur near road junctions and inhabited areas.
- About 48 per cent of accidents are hit-and-run cases. This percentage increases in the case of State highways and lower category roads.
- Rash and negligent driving is the biggest cause (65 per cent) of truck accidents.
- 70 per cent of persons succumbing to injuries die on the spot, while another 7 per cent die on the way to hospital.
- Deficiency in highway design features is the cause of many fatal truck accidents.
- Overloading of vehicles, long hours of crew duty, intoxication and low levels of training are the major contributory factors in accidents.

- Based on Studies by CRR, IIT & AITD

5.2 AITD figures are that there are around 5 million truck drivers in the country. This estimate is based on the assumption that there are about 2.5 million trucks in the country and each truck has two drivers. Given the rise in number of trucks operated for goods transportation, the total number of truck drivers in the country will double in the next ten years. In spite of this, there is no perceptible change in the way the road transportation sector values the contribution made by truck drivers. This has led to poor quality of life for most drivers, undue harassment by official agencies, etc. The frequency of a driver returning to base is also quite low for most drivers. Is it possible that such conditions have led to a higher number of casualties?

5.3 For instance, what facilities do truck drivers have for night stay or for rest during long journeys? The AITD did a survey of drivers in 1998 and found that 75 per cent of drivers opt for a night halt at roadside 'dhabas', which can be described as small makeshift restaurants that provide cots doubling as dining tables, as well as sleeping beds. A large proportion of the sample spent night halts on the roadside in their trucks. In the US, trucking firms began taking more a sympathetic view only after a huge shortage developed in manpower resources. In fact, whether better support services will be provided depends also on the tightness of the market for truck drivers. This variable will not change in India for a long time because of the excess of supply of truck drivers. Hence the emphasis on other variables of change.

5.4 Truck owners care little about the welfare of drivers. Absence of basic work support facilities has remained unnoticed for quite some time. A night halt at a roadside dhaba is accepted by society at large. Truck owners have shown even less regard for the usual norms of working hours prevalent in most industries. Most developed countries have clear laws that prohibit any heavy vehicle driver from remaining at the wheel for more than 4-6 hours at the most. These norms have been framed not just to ensure that the driver gets a decent break and rest from his work, but also to make sure that road safety norms are honoured. A tired driver is a hazard for road safety, particularly when he is at the wheels of a heavy commercial vehicle.

5.5 But as the AITD survey showed, truck drivers in India function in a different world. About 20 per cent of drivers confessed to driving for more than 12 hours a day. More than 44 per cent of drivers drove their vehicles for 9-12 hours a day. Only 5 per cent admitted to driving for 4 hours per day on an average. There is an additional problem on the insurance front. Around 80 per cent of vehicles have a comprehensive insurance policy, while 20 per cent have third party insurance.

Woes of Trucking

5.6 The poor infrastructural support for the truck driver has given rise to a series of problems that cannot be overlooked. Driving a fully loaded truck in India's traffic conditions, including poor and badly maintained roads, can be a challenging proposition. Poor working conditions only aggravate the problem. All such weaknesses accumulate and insensitiveness to safety norms is often a result^[19].

5.7 The AITD survey revealed that most truck drivers are aggressive on the road. They frequently indulge in overtaking, over-speeding and occupying the centre of the road, even in two-lane carriageways. Besides, truck drivers never follow a particular schedule. For instance, even if a truck has two drivers on duty, there is no scheduled halt for rest for either of them. There is no fixed time for rest or meals. Intake of alcoholic drinks is prevalent over long distances. Worse, drivers have been caught napping at the wheel, particularly towards the end of a long driving spell (more than 10 hours). Poor road conditions, frequent stoppages and delays, congested highways and ill treatment from officials also contribute to the problem.

5.8 Consider a life of the truck driver. His work starts and ends in the driver's cabin. Technically, most Indian truck manufacturers have little regard for the truck driver. The driver's cabin is a cramped cubicle, where the driver and his associates hardly find enough space to move their legs and hands freely. The driver's cabin is an extension of the main body of the truck, and not a separate section, as is a common feature in trucks in developed countries. But more than that, the driver's cabin is right on top of the engine. The cabin and the load body are not on separate platforms, resulting in extreme heat, vibrations, noise, poor comfort and poor protection to the driver^[20]. Working under such extreme conditions influences the senses of the driver. Worst of all, about 95 per cent of the trucks are two-axle rigid trucks, where overloading is a common phenomenon. Poor vehicle design and use of poor quality material is rampant in the truck body-building business. The body-building industry is completely in the unorganized sector and does not come under any regulatory control. Nor is there any uniformity in design features and standards. The way trucks are fabricated requires the driver to be adept in acrobatic skills, because he has to climb up to get into the driver's cabin.

5.9 The work of the truck driver starts even before he begins his journey. The driver often plays multiple roles. He acts as the supervisor of loading operations and takes complete charge of safe loading and unloading of goods. In extreme cases of short supply of labour, he also transforms into a labourer so that the loading/unloading work can be completed in time. On a few occasions, he also performs the job of labour scout for the consignee. In order to get the maximum advantage, owners also impose pressure on the driver to carry the entire load in a single trip, even if the truck is overloaded and violates the loading regulation.

5.10 Once he is on the road, very often, he is hauled up for violating city traffic rules. His efforts to mollify the policemen begin from there. Once on the highway, the Regional Transport Officer (RTO) takes over. Instead of facilitating highway traffic, the RTO and highway police lose no opportunity to harass the truck driver for graft. Tax authorities are next in the line of takers and treat truck drivers as source of revenue. In the event of any misinformation or mistake, detention is inevitable, for which guilt, the driver may have had no role to play. Apart from the usual checking and inspection, there are other official agencies that stop the vehicle on flimsy grounds, so as to draw their pound flesh. At each location, whether it is at the taluka, district or State level, the driver always confronts newer problems with the regulatory bodies^[21]. Even if all papers are in order, the consignment is in order, all bulbs and emission norms are satisfied, then also some agency can still find means to detain and challan the vehicle. Personal interview with some drivers revealed flimsy charges like uneven air pressure in the tyres, not in uniform and driving barefoot. These may also lead to a challan and confiscation of the driving license.

5.11 Adding to this, there is the discomfort of driving on Indian highways. For example, speed breakers are frequent on the roads, without any road signs or without standard designs. Maintenance of roads on many stretches is very poor, making driving a nightmare. Add to this the free movement of cattle, village folks, plying of light slow moving vehicles like bullock carts and tractors.

5.12 The poor law and order situation is also a contributory factor. Frequent hijacking, being waylaid on highways, poor police protection and frequent bandhs and 'chakka' jams are examples. Systemic weaknesses of enforcement agencies contribute to the hit and run mindset, preferable to a lynching mob. Drivers also blame locals who frequent highways, disregarding their personal safety and ignoring basic traffic sense. One of the major problems the driver faces in such unforeseen eventualities is in application of brakes. A fully loaded truck cannot be stopped immediately, unlike a passenger car.

5.13 The driver community has developed its own systems to warn fellow drivers of existence of inspectors on the way. There is a tremendous sense of brotherhood on the highway. Using dippers and hand signals, one driver communicates with another about the looming threat of law enforcement agencies or barriers and 'chakka' jams. There are frequent occasions when one truck driver helps another truck driver in trouble.

Chapter 6: The Regulatory Regime

6.1 Distribution of goods and commodities from the manufacturer or the producer to the end user is a complex phenomenon and this is further complicated with statutory regulations. India is not a single market, each State treats goods produced in other States as equivalent to imports.

Government Regulation: Objectives

- Control day-to-day functioning of distributive trade.
- Collection of revenue for the exchequer
- Provide fair deal to consumers

6.2 Moon *et al* (2000), Bagchi (1995), Shyam Nath (1999), Purohit (1993,1992) and many others, while discussing about taxation, have listed the prime objectives of government regulations. These objectives are essentially to control day-to-day functioning of distributive trade, utilize business for collection of revenue and provide a fair deal to consumers through provisions and specifications that ensure that products are of good quality and adequate, accurate information is provided and artificial shortages are prevented.

6.3 As stated earlier, the regulatory regime is framed on the basis of mode of transport (that is, truck operations) and there are also regulations that are goods-related and designed for consumer protection. In varying degrees, all countries regulate the trucking industry. At the same time, regulations related to goods and consumer protection are also present. The Indian experience has not been any different. However, unlike Indian highways, one does not find long queues of trucks on inter-State highways nor scattered checkpoints along the highway in other places like the European Union and North America. Is the transportation sector under heavy regulation in India or has the regulatory regime become outmoded?

Regulatory Regime^[22]: Truck Operation

6.4 Motor vehicles were first introduced in India during the closing years of the 19th century. In 1914, the first Indian Motor Vehicles Act was passed and was made applicable to what was then British India. Some princely States followed suit, with local modifications. The rapid growth of motor vehicles posed a threat to the British owned railway companies. Thus, the government felt the need to regulate passenger and goods motor transport vehicles to prevent them from competing with railways. With this prime objective, the second All India Motor Vehicles Act, 1939, was passed and came into force in 1940. This created Regional and Provincial Transport Authorities that were authorized to grant permits for stage carriages and for public and private carriers. With regard to co-ordination between rail and road transport, the Act empowered Provincial Governments to prohibit or restrict long distance movement of goods by road and transport of specified classes of goods by public or private carriers. Under the provisions of the Act, goods vehicles were not allowed to operate outside the region in which they were registered. This Act was in force for almost 50 years, though there were a number of amendments in between. In 1988, a major qualitative change was attempted and the Motor Vehicles Act (MVA), 1988 came into being. This is the present legislation, along with the Central Motor Vehicles Rules (CMV), 1989 framed thereunder.

6.5 While the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules, 1989 are Central elements of legislation, their enforcement is the responsibility of State governments. The Act prescribes conditions for regulation of all types of road transport, passenger transport in public and private sectors, tourist transport, contract carriages and goods transport. Goods transport is predominantly in the private sector.

Quantity Regulation

6.6 At present, there is no quantity regulation for goods vehicles. As per Section 89 of the Motor Vehicles Act, 1988, any person can apply for any kind of permit at any time and the Regional Transport Authority shall not ordinarily refuse to grant the permit. With this policy of liberalization of permits, the quantity regulation that existed in earlier Acts is no longer relevant.

Quality Regulation

6.7 There are provisions in the MVA that deal with quality regulation. The existing quality regulations include roadworthiness of vehicles (fitness certificate - Section 56 of the MV Act), competence in driving (driver licensing – Section 9 of the MV Act), control of emissions (emission norms, inspection and maintenance programme of vehicles, pollution under control certificates) and observance of other regulations. As far as the fitness test is concerned, it is based on visual inspection systems, which leaves much to be desired. Similarly, competency test for drivers is lax, resulting in liberal granting of licenses. Consequently, competency test does not ensure the availability of skilled drivers. There is ample scope for rent seeking in the licensing system and competency test for drivers. For pollution control, the law was not stringent till 1996. As a result, pollution control for a large number of old vehicles does not exist. In general, quality regulations have too many loopholes, and are not strictly enforced.

Price Regulation

6.8 State governments have the powers to fix fare and freight rates as per Section 67(1)(d) and Section 79(2)(iv) of the MV Act. The State governments, however, feel that the matter should be left to the market forces so far as goods freight rates are concerned. There is no price regulation by States and freight rates are decided through the forces of demand and supply. It is common knowledge that freight rates fluctuate from season to season. Sometime, Route Associations, Brokers' Associations and Owners' Associations, decide upon mutually agreed freight rates within their respective jurisdictions.

Labour Regulation

6.9 The hours of work of any person engaged in operating a transport vehicle shall be such as stipulated in the Motor Transport Workers (MTW) Act, 1961. Based on this provision, Section 91 of the MV Act provides for 8 hours of work for drivers. However, these provisions are not enforced strictly. They are not enforced by the Motor Vehicles Department and it is presumed that this is the responsibility of the Labour Department. Lack of co-ordination between the Labour Department and Transport Departments of States is responsible for poor implementation of both Acts. Truck owners do not maintain any record of duty hours of drivers and other employees. Further, the MTW Act is applicable only when the undertaking employs 5 persons or more. Considering the present ownership pattern, this is a major limitation.

Safety Regulation

6.10 Safety depends upon the condition of vehicles in the hands of competent and skilled drivers. The other prerequisites of road safety are well-designed roads and strict enforcement of provisions of the MV Act. Most truck drivers do not receive proper training from motor driving schools. The mechanism to regulate motor driver training schools provided in the MV Act is neither implemented, nor is attention given to upgradation of such schools as are licensed by State governments. The condition of vehicles is also poor. The design of vehicles is not upgraded and preventive maintenance is neglected to save money. In fact, the maintenance of trucks is entrusted to roadside mechanics who are by and large illiterate and ill-equipped and do not appreciate the importance of fuel efficiency, pollution control or safety aspects. On road infrastructure, this is in bad shape since this sector has been starved of funds for a long time. Road deficiencies and lack of enforcement of safety regulations endanger road safety.

Environmental Regulation

6.11 CMV Rule No. 115 prescribes limits for emission of carbon monoxide (CO), oxides of nitrogen, hydrocarbons and suspended particulate matter (SPM), etc, from motor vehicles. The Central government has the power to lay down emission levels for motor vehicles. Emission norms were first prescribed in 1992. Stricter norms were prescribed for all categories of vehicles in 1996. These were made more stringent with effect from 1st April 2000. The tightening of emission norms has brought about better technology in the automobile sector. But the problem of on-road vehicles built prior to the introduction of emission norms is rather serious. No emission norms have been prescribed for these vehicles^[23]. While it has also been mandated that all motor vehicles on roads shall possess a valid "Pollution Under Control Certificate" and the enforcement agencies of States are supposed to take appropriate measures, testing of pollution is not carried out effectively. There is no system in place for inspection, maintenance and certification of these vehicles. The Steering Committee was informed that the Technical Standing Committee constituted by the Ministry of Surface Transport (MOST) had suggested certain parameters for checking of vehicles. These requirements are yet to be incorporated in CMVRs. There are a number of factors affecting the management of pollution control, but enforcement machinery is neither adequate nor equipped to meet this challenge. Licenses granted to the private sector to check pollution levels and issue PUC certificates have not produced satisfactory results so far. As such, environmental regulations are followed more in the breach.

Regulation of Brokers/Agents

6.12 Section 93 of the MV Act provides for licensing *inter alia* of any agent or canvasser engaged in the business of collecting, forwarding or distributing goods by trucks. The wording of the section seems ambiguous. Any interpretation would imply that this section does not cover brokers and booking agents. There has been mushrooming of unscrupulous brokers/booking agents. There is a need to include brokers/booking agents within the scope of this section explicitly.

Regulation of Axle Loads

6.13 Sections 113 and 114 of the MV Act empower the Motor Vehicles Departments of States to ensure that vehicles carry loads within prescribed limits. Due to unhealthy competition in the trucking industry, overloading is a common occurrence. Further, weighbridges (dharam kanta) are not available in sufficient numbers to detect the offence of overloading. The provision of off-loading excess weight is not implemented for want of facilities. Lack of will on the part of authorities to enforce the provision 'offload the excess weight at owner's risk' as well as the provision of compounding the offence of overloading has resulted in the relevant regulation existing only on paper. Overloading has, in fact, become the order of the day.

Regulation by Police Authorities

6.14 Besides the Motor Vehicles Department, the police also check motor vehicles. The specific areas in which police authorities have a role to play are:

- When theft of a motor vehicle takes place
- When vehicles are involved in accidents
- In verifying personal antecedents of drivers, cleaners, helpers, etc., as and when need arises
- Regulation of traffic

6.15 Under the MV Act, the police have powers such as detaining the vehicle without registration or permit, impounding false documents (registration certificate, license, permit, certificate of insurance etc), booking persons for driving at excessive speed or driving by a person under influence of alcohol or drugs. These offences are not punished. There is no institutional mechanism for coordination between the Transport Department and the Police Department in States. As a result, the concern of the police

authorities is only to ensure that provisions of the Indian Penal Code (IPC) are not violated. It is only through coordination between these two departments that enforcement of both the MV Act and the IPC is possible to ensure effective traffic management and road safety. The punitive clauses for various offences also need a re-look. At the moment, these regulations only provide scope for bribery and corruption.

Insurance

6.16 Third-party liability risk cover is mandatory under the MV Act. Under third-party policy, the insurer provides indemnification to the insured against all sums that the insured shall become liable to pay in respect of damages to third-party property or death/bodily injury to any person arising out of the use of motor vehicles. However, the MV Act does not make it compulsory to insure cargo carried in vehicles, for which, a separate policy is required. Another aspect of MV insurance is the tardy settlement of accident claims. Several measures have been taken both by the government and the insurance industry to expedite claim settlements, such as introduction of Section 140 (No Fault Liability), Section 163A (Structured Formula for Compensation), holding of Lok Adalats, etc. But in terms of implementation, the system has failed to deliver relief.

Focus on 'Revenue', rather than on 'Regulation'

6.17 The Motor Vehicles Department is concerned with the enforcement of the provisions of the MV Act. Speed limits and other provisional measures listed in the Rules are an integral part of motor vehicle regulation. But technologically, vehicles are gaining capabilities of acceleration to 80 kmph in a matter of a few seconds. At the same time, municipal bodies and other traffic regulators pass rules without taking due care of technological requirements. For example, Delhi Administration has lowered the speed limits of Heavy Vehicles to 40 kmph, but road signs continue to display old speed limits. In fact, the problem lies in management practices of the Motor Vehicles Department, which are age-old. The skills of officials deployed in the MV Department are not being upgraded. Technology in terms of use of sophisticated computers for information or communication is conspicuous by its absence.

Motor Vehicle Department: Activities

- Collection of taxes
- Issue of driving licenses
- Issue of conductor licenses
- Registration of vehicles and transfer of ownership
- Issue of fitness certificates for transport vehicles
- Issue of permits for transport vehicles
- Enforcement of MTV & MTW
- Checking of vehicles at border check-posts
- Attending to accident vehicles involving fatalities and serious injuries
- Other miscellaneous work

6.18 The necessary infrastructure for driver testing, fitness testing and pollution control is not available. These departments are seen as revenue earning sources and contribute nearly 10 per cent of any State's tax revenue. Thus, the focus of these departments is on collection of tax revenue from motor vehicles and not on enforcement of various provisions of the Act. The present institutional focus being on 'revenue', important functions, such as mobility, fuel conservation and environment protection, do not get adequate attention.

6.19 The MV Act provides rules for the issue of drivers licenses, registration of vehicles, permits and fitness certificates, enforcement, road safety, prevention of overloading, insurance of vehicles, etc. The CIRT survey shows that there are problems faced by MV Departments with regard to registration of trucks

- such as variation in GVW of vehicles allowed by States (for example, GVW allowed by Nagaland is much higher than in other States), re-registration of vehicles when 'No Objection Certificate' (NOC) is not forthcoming from the earlier registration authority and manual maintenance of records, which is becoming a major problem due to shortage of manpower and absence of computerization networks amongst RTO offices. The last is responsible for issue of fake registrations.

6.20 The vehicle fitness scheme is a road safety measure designed to encourage owners to maintain their vehicles and ensure that the most important safety related items are inspected periodically as provided in the Act. Inspection of vehicles includes seats, lighting equipment, steering and suspension, brakes, tyres and wheels, horns, exhaust systems and emissions, mirrors, fuel systems and registration plates^[24]. The infrastructure for fitness certificate work is inadequate. It is based on visual inspections and common judgement. There are many fake fitness certificates, as there is no mechanism to check them. The survey also revealed that there is a dominant preference for national permits, around 68 per cent of truck owners had national permits, the balance 32 per cent had State permits. Monitoring of expiry dates of permits, delay in despatching 'demand drafts' deposited by national permit holders with their home state and lack of effective mechanisms to detect fake permits are other problems faced by the MV Department. The present procedure does not ensure timely receipt of composite tax for national permits by States other than the home State. There is no co-ordination between government departments like the Police, PWD, Municipal Corporation, Urban Development Authority and State Transport and this results in poor safety, poor traffic control and severe congestion on roads.

6.21 In the transport sector, in many countries of the world, independent regulators have been set up to ensure healthy development of the industry, promote competition and ensure adherence to legal provisions. A similar regulatory authority is necessary for India. This authority could be an independent statutory regulatory authority, outside the government, along the lines of the Telecom Regulatory Authority or Central Electricity Regulatory Commission.

Regulatory Regime: Goods

6.22 The regulatory regime for goods is more complicated than regulating trucking operations. A truck can have a single commodity despatched by a single supplier to a single receiver. On the other hand, a truck may carry multiple commodities despatched by different suppliers to different buyers at different points for delivery. The regulatory regime for goods is commodity and location specific. The fiscal obligation is common to both commodity and location. The situation is complicated further because the regulatory regime for commodity specific statutory obligations requires a different type of administrative enforcement measures. In the event of any missing link in the multiple commodity carrier, detention of the carrier is inevitable.

6.23 This is a major irritant in the flow of trade and commerce. The Centre, along with State governments, is empowered to enact laws pertaining to goods. In doing so, duplication in work done by the government machinery leads to confusion in the minds of those who have to comply with provisions of legislation. Internal trade in goods is subjected to a multiple licensing system from a number of authorities. Besides, all licenses have to periodically checked and renewed, which entails submission of returns, display of stocks and prices. All such unproductive work involves a great deal of administrative work, leading to corruption and harassment. Unrealistic provisions make it even more difficult. Moreover, lack of uniformity in implementation is another form of distortion. While some States are very vigorous in implementing the laws scrupulously, others are not. For instance, sale of Kesari Dal in any form is banned under Rule 44 (a) of the Prevention of Food Adulteration Rules in some States. In some States where Kesari Dal is produced in large quantities, sales are allowed. As a result, in one State, the accidental admixture of Kesari Dal with other pulses may lead to punitive action. In a neighbouring State, it may be allowed. This should not be the spirit of the law.

Commodity Specific Regulations

Essential Commodities Act (ECA)

6.24 The ECA and control orders issued under ECA have caused numerous problems to the distributive trade. The emphasis throughout this legislation has been on regulating distribution, relegating the more important objective of expanding supplies to the background. The provisions of the ECA are such that it imparts enormous discretionary powers in the hands of official agencies. The penal provisions of ECA were made more stringent through the Essential Commodities (Special Provisions) Act, introduced in 1981 for a period of five years, but extended again and again. All offences have been made non-bailable and appellate jurisdiction has been transferred from the judiciary to the executive, thus allowing the executive to adjudicate on its own decisions.

6.25 The ECA fails to define the term 'essential'. Nor do the provisions give any essentiality norms, leaving it completely at the discretion of the executive. Ambiguities in the provisions lead to considerable misinterpretation and unnecessary harassment. At the same time, all commodities cannot be equally essential. That which is essential for life cannot be equated with industrial raw materials. But the list of essential commodities has a large number of industrial intermediates.

6.26 The list of essential commodities can be changed, some commodities may be removed and some more can be added. Lack of coordination between official agencies is one of the many causes of undue harassment. The consignee, nor the consignor, accompanies the goods. The person accompanying the goods is the truck driver and cleaner. In the event of any violation of ECA, the driver and other staff in the truck are the first casualties to be booked for punitive action as accessories to the crime. Others are booked later. The District Supply Office (DSO) enforces ECA at the district level. Inspection authorities from DSO are empowered to check any warehouse, shop, establishment or carrier on the pretext of suspicion. Even though the truck may not be carrying such goods to cross borders as per declaration papers accompanying the consignment, DSO officials can stop the vehicle to verify the contents. There is a lot of discretionary power vested with the department, leaving a lot of scope for corruption and harassment.

Indian Forests Act, 1927

6.27 This empowers the Union and State Governments to make laws and regulations to regulate transit of timber and other forest produce. Chapter-VII of the Act is specifically meant for controlling and regulating movement of forest produce.

6.28 The Central Government is empowered to make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into the territories to which this Act extends. The Act also explicitly mentions breach of rules under Section 42. The State Government is allowed to make rules and prescribe penalties for the contravention of the Act. The penalty against infringement can be imprisonment for a term, which may extend to six months, or fine that may extend to five hundred rupees, or both. Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

6.29 But the Act is also discriminatory because it absolves accountability of officials from damage to forest produce at depot. Section 43 of the Act is titled - "**Government and Forest-officers not liable for damage to forest-produce at depot**". The provisions clearly state that the Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act; and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently. Chapter IX also mentions penalties and procedures dealing with provisions that may lead to detention of the carrier. For instance, Section 52 states that when there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer. Under the Indian Forests Act, all State governments have erected checkpoints at various locations in their respective territories to inspect vehicles that may carry forest produce and timber. As a result of this, trucks on the highways have one more inspector/official agency to deal with in terms of stoppage and rent-seeking. Besides, forest produce and timber, which are easily distinguishable on visual inspection, there are other environment-related laws that also have powers to detain vehicles for inspection.

6.30 Constitutional provisions on environment protection are backed by a number of acts, rules and notifications. The Environment Protection Act of 1986 (EPA) came into being soon after the Bhopal Gas Tragedy and is an umbrella legislation. There are also rules like the Handling and Management of Hazardous Waste Rules of 1989. Some of these rules are given in the box. What is important is the accountability of carriage under these laws and rules.

Environment Related Laws ^[25]

- **The Environment (Protection) Act, 1986**
- **The Environment (Protection) Rules, 1986**
- **Hazardous Waste (Management and Handling) Rules, 1989**

- **The Manufacture, Storage and Import of Hazardous Chemical Rules, 1989**
- **The Manufacture, Use, Import,, Export and Storage of hazardous Micro-organisms/ Genetically Engineered Organisms or Cells Rules, 1989**
- **The Biomedical waste (Management and Handling) Rules, 1998**
- **The Wildlife Protection Act 1972, Rules 1973 and Amendment 1991**
- **The Forest (Conservation) Act, 1980 and Rules 1981**
- **The Air (Prevention and Control of Pollution) Act, 1981**
- **Air (Prevention and Control of Pollution) Rules, 1982**
- **The Atomic Energy Act, 1982**
- **Air (Prevention and Control of Pollution) Amendment Act, 1987**

6.31 Other than laws on the environment, other pieces of legislation can also affect the distribution system. These are not specific to transportation, but can nonetheless be used to detain vehicles under suspicion and check the carrier^[26].

Other Legislation Affecting Distribution

- Consumer Protection Act, 1986
- Bureau of Indian Standards Act, 1986
- Dangerous Drugs Act, 1930
- Prevention of Food Adulteration Act, 1955
- Drugs and Cosmetics Act, 1940
- Agricultural Produce Grading and Marking Act, 1937
- Indian Sales of Goods Act, 1930
- Standards of Weights and Measures Act, 1976
- The Standards of Weights and Measures (Enforcement) Act, 1985
- The Forward Contracts (Regulations) Act, 1952
- The Emblems and Names (Prevention of Improper Use) Act, 1950
- The Spirituous Preparations (Inter-State trade and Commerce) Control Act, 1955

6.32 There may not be specific checkpoints on roads for checking under these laws and these laws may not directly require detention of vehicles. But trucks can be stopped for inspection and verification of consignment and impounding of the truck and its consignment are also possible. Even if the Act doesn't have such provisions, administrative rules do. Some sections of the Indian Penal Code and the Prevention of Food Adulteration Act (PFA) are examples. A Food Inspector under PFA has the right to check any truck that has food-related consignments. The Essential Commodities Act (ECA) is yet another instance. Perhaps one should mention that the record of convictions under ECA is 0.3 to 0.5 per cent of those arrested.

Regulatory Regime: Consumer related

6.33 The ECA can be interpreted as legislation enacted to protect the consumer, but there are other examples of consumer-related laws also. These laws seek to regulate production and distribution and often create artificial shortages in the process. It is a moot point whether they really serve the cause of the consumer. The Internal Trade Department of Federation of Indian Chambers of Commerce and Industry^[27] is of the opinion that such legislation has not served consumers well because of the following reasons -

- The provisions are unrealistic and difficult to follow.
- The harsh penal provisions, the way in which they are implemented and lack of provision for appeals have instead benefited the cause of corruption.

- The cost of implementing consumer protection legislation and revenue raising instruments is quite high and is ultimately passed on to consumers in the form of high taxes and high prices.
- Stock limits interfere with the smooth functioning of trade and create bottlenecks in supplying products in time to consumers. The mismatch between demand and supply not only leaves the consumers dissatisfied, but can also push up prices.

6.34 In terms of implementation and enforcement, lack of transparency, high-handedness of officials and loopholes in rules have adversely affected distributive trade. If the transport vehicle carries multiple commodities, its movement becomes all the more difficult. Detention on account of one commodity may lead to the detention of other goods. It is not only the infringing commodity that is removed from channels of distribution, but the carrier, along with the entire consignment.

6.35 The problem becomes worse because of the dispute resolution system. If a carrier is stopped at a district border or any other point on its way, the consignor and consignee must respond to the complaint at the point of detention (or within its jurisdictional area). In other words, if a vehicle carries goods from Mumbai to Gorakhpur, but on account of infringement of ECA or any other legislation if it is stopped at Ghaziabad, the matter can only be resolved at Ghaziabad. The consignor and consignee will have to respond in Ghaziabad courts and not at Gorakhpur, though the office of the enforcement agency is at both places, under a single State government's jurisdictional area. An obviously efficient way of handling such a situation could be to allow the truck to continue its journey to Gorakhpur, while endorsing its papers for violation and issuing necessary instructions to the Gorakhpur office to take action against the consignment.

6.36 The regulatory regime is complementary to the tax regime and the tax regime is discussed in the next section.

Chapter 7: The Tax Regime

7.1 Taxes of various kinds and in varying rates are often imposed without consideration to their distorting aspects. States have often attempted to reduce taxes in a competitive spirit to attract trade and industry to the State concerned^[28]. Such competition in sales tax leads to legitimate concerns and there has also been an attempt to unify and harmonize sales tax rates, so as to move towards a value added tax (VAT). However, there is also the point that in an attempt to absorb the resultant revenue loss from competitive lowering of sales tax rates, States have sought to identify new sources for levying taxes^[29]. There has thus been a growing tendency to transfer tax liability to the transportation sector for quite some time.

Costs of the Fiscal Regime

- Loss of output growth and welfare
- Inefficiency and high cost in industry and trade
- Impediments to the free flow of trade within the country and growth of the common market that the Indian Union potentially offers
- Inter-jurisdictional conflicts
- Handicap for exports
- High costs of compliance and enforcement
- Delays and harassment

7.2 The fiscal regime is both transport-specific and commodity-specific. Vehicles are detained for checking payment of commodity-specific taxes such as sales tax, octroi and other local taxes. These

checks are generally done by the respective agencies at separate points, resulting in more than one detention for this purpose. At the same time, there are specific taxes levied on the transportation sector, for instance, road tax, national and state permits, etc. Taxation of motor vehicles is a widely used instrument for raising resources. Usually, the transport carrier is detained at five different locations for collection of tax or checking the papers at the State and District level.

7.3 What differentiates the existing system in India with that of taxation systems practiced outside India is the delay and harassment in the tax recovery system. Domestic trade taxes in India are in need of reform. The tax regime that is in place today is archaic, irrational and complex. It interferes with the free play of market forces and competition, causes economic distortions and entails high costs of compliance and administration. Under the Constitution, the basis of excise duties and sales tax, the two principal components of the domestic trade taxes, are distinctly defined – excise duty as tax on production of goods and sales tax on consumption (sale or purchase). In practice, the two have come to overlap because of problems in administering taxes at the retail level.

Taxation of Road Transport^[30]

7.4 Taxation of road transport has two purposes: to charge users for the costs they impose on the road system and on other users (marginal costs) and to raise revenues for the government (pure taxation). In designing the tax system, these functions need to be considered separately, because different principles arise in each case. The problem to be solved in designing road user charges, corresponding to marginal costs, arises from the limitation of tax instruments available or forms of existing distortions (absence of marginal cost pricing in other sectors). Motor vehicle taxation can, however, take several forms and the structure of taxes varies from State to State.

7.5 Accordingly, the cost recovery mechanism has been based on what is popularly termed the "two part" tariff principle. First, there is part that seeks to recover fixed costs by imposition of taxes on vehicle registration, license etc. There is a second or variable cost component through use-related levies such as fuel taxes, sales taxes on spare parts, etc. Since there is substantial proportionality between road use cost caused by different vehicles and input requirements for these vehicles, taxes on inputs such as vehicle purchase, have always appeared to serve as an adequate base for charging for road use. Purchase taxes, through not varying with the activity that causes road costs, have the desirable characteristic of being able to discriminate between vehicles. Further, fuel taxes appear very attractive instruments, as fuel is a reasonably good measure of distance driven.

7.6 The pure taxation element basically attempts to realize policy objectives by supplying the government with revenue in the face of a narrow tax base. The argument from a narrow tax base viewpoint is most valid for taxing consumers on personal transport, not intermediate goods and services such as transport used by producers. But experience has shown that this element has been used to mobilize general revenue in a much more significant way than what can be termed fair. In this context, the comment of the Motor Vehicle Taxation Enquiry Committee (1950) is relevant. This points out, "There can obviously be no "fair basis" of taxation of the motor vehicle user and no "scientific scheme of taxation designed to ensure the provision of and development of cheap, rapid and efficient transport for the various categories of users by the means best suited for the kind of traffic involved" if each taxing authority in India is merely concerned with collecting as much revenue as possible from the motor vehicle user."

Central & State sales tax is at the state entry point, remaining ones include at the district level, Random checks (Flying Squad) are at any point of the journey

7.7 Following the Government of India Act, 1935, the Constitution divides powers of motor vehicle taxation between the Centre and the States.

The major taxes levels levied on the road transport sector are the following.

- ◆ Union custom duty, excise duty, central sales tax (CST) levied by the central government
- ◆ Motor vehicle tax, passengers and goods tax, sales tax, and entry tax levied by the state governments; and
- ◆ Octroi and tolls levied by the local bodies

7.8 All these taxes, levied by different tiers of the government, can be analyzed with reference to three different aspects, namely, those relating to purchase of vehicles, ownership of vehicles and operation of vehicles.

Taxes on Purchase of Vehicles

7.9 These taxes are levied on the acquisition of vehicles and include once for all payments of union excise duties and sales taxes. The union excise duty is levied by the central government on manufacture of motor vehicles. The rate of excise duty varies according to the type of the vehicle. It is presently 16 per cent on commercial vehicles. The Central government also levies a central sales tax (CST) on inter-State transactions. Under this category, 4 per cent tax is levied if the vehicle is sent by the manufacturer/dealer from one State to another. However, manufacturers/dealers normally send vehicles on stock transfer and avoid payment of this tax³¹. States realize revenue in two forms: fees and motor vehicle taxes.

Types of Fees

- ◆ Fees for registration of motor vehicles
- ◆ Fees for obtaining driving licenses
- ◆ Fees on transfer of ownership of motor vehicles
- ◆ Fees on trade certificates issued to manufacturers, dealers and repairers of vehicles
- ◆ Fees on permits for plying transport vehicles: and
- ◆ Fees on issue of certificates of fitness for transport vehicles

7.10 Motor vehicle tax is realized by different States in different ways, on the basis of different uses, such as private vehicle and public vehicle. Since motor vehicle tax is a State subject, every State is free to make rules and regulations on this. Moreover, State governments also levy a tax on sale of vehicles. The rate of tax varies from one State to another. Some States also levy an entry tax to compensate for the difference between the sales tax rate in the State and that prevailing in other States where the vehicle is registered and from where it is brought to the State concerned within a specified period.

Taxes on Ownership of Vehicles

7.11 These taxes include recurring charges levied on vehicles during the period of ownership, usually in the form of an annual MV tax. In respect of cars and other personalized vehicles, this is charged as one time tax. Motor vehicle tax is levied by States under their respective MV Acts. Tax rates vary according to the type of vehicle (such as motor cars, cabs, taxis, stage carriages) or laden weight, or price of vehicles. Generally, permits of private carriers are taxed at higher rates than those related to public carriers.

7.12 Passenger tax and goods tax are levied on passengers and goods carried by road. Both these taxes are similar in nature and are on the same base and paid ultimately by the same group of people. Some States levy both of these. In addition to this tax, they also levy a surcharge on this tax. The rates of this tax indicate considerable variation across States, with added variation according to the nature and of use of vehicles.

Taxes on Operation of Vehicles

7.13 Taxes on the use of vehicles include union excise duty levied on motor spirit and HSD by the central government. Presently, the union excise duty on motor spirit is levied at a rate of 24 per cent, while the rate is 16 per cent on HSD. In addition, a cess of Re 1 per litre on motor spirit and diesel is levied to raise funds for road construction. Sales tax on fuel (motor spirit) and lubricants is levied by States. VAT or sales tax is also levied on spares or on general maintenance and running costs. Motorway charges or other road user tolls are also levied by States.

7.14 Octroi is yet another tax that affects the road transport sector. Its problems include cumbersome and vexatious administration and collection processes, regressive incidence of tax and commodities open to multiple valuation, leading to malpractices. However, octroi yields substantial revenue in six major States for local bodies. It is generally based on quantity or weight (specific tax) or sometimes on the value of the commodity (ad valorem tax) entering a local area. It is assessed and collected at the point of entry by stopping the vehicle. However, the tax being mostly specific, there are many rate categories. The point of assessment and collection being the entry point of a local area, this causes arbitrariness in assessment and delays in transportation. It also encourages corruption.

7.15 Most high powered Committees, like the Lakdawala Committee (1974), the Chelliah Committee (1980) and the Papola Committee (1985), have recommended abolition of octroi and its replacement by entry tax or the imposition of an additional surcharge on sales tax. An ambitious recommendation was made by the LK Jha Committee (1977), which recommended octroi's abolition without linking it with any alternative sources of revenue. Various industry associations like CII have also requested the government to substitute octroi with a suitable alternative.

Motor Vehicle Tax Structure

7.16 The existing tax structure for commercial vehicles shows wide variations among States. There are different bases for computation and different rates, leading to differing incidence of taxes per vehicle in different States. In fact, it is difficult to make comparisons of rates levied on different types of vehicles in different States. First, there are different schemes for classification of vehicles. Second, there is no uniformity in the basis of various levies. Third, there is an involved procedure for collection of taxes. Fourth, there is multiplicity of taxes. Besides MV tax, there are passenger and goods taxes, union excise duties, sales taxes on vehicles and on components, taxes on fuel, octroi and fees of different types. Finally, there is a one-time levy in some States and in others, there is an annual or quarterly tax. Taxes on motor vehicles are widely used to regulate and control vehicles. They are also used to raised resources.

7.17 In the case of passenger transport vehicles like stage or contract carriages, the seating capacity forms the basis for levying tax. The basis has extended to cover authorized standees as well. Some States, for example, Madhya Pradesh, Orissa and Rajasthan also include the distance that the vehicle is permitted to ply as an additional element for determining the quantum of tax. There is another system also. Routes are divided into 3 categories, A B & C with a different rate of tax for each. This system is prevalent in Uttar Pradesh. The period of payment also varies from State to State. Some States charge the tax quarterly, while others charge it annually.

7.18 The tax on goods transport vehicles is primarily based on weight registered laden weight (RLW) or unladen weight (ULW). Besides, differences in the tax base, there are State-wise variations in the rates of MV tax. These variations have led to wide disparities in the incidence of tax per vehicle per annum, the

highest being in Haryana (Rs 48,105). In Southern States, Tamil Nadu has a high of Rs. 32,215, while in Kerala it is Rs. 29,399.

Entry Tax

7.19 In addition to motor vehicle tax and passengers and goods taxes, States also levy entry tax. This is usually levied on commodities brought into the State. In addition, some States levy tax on motor vehicles entering the State. This is levied in Andhra Pradesh, Delhi, Karnataka, Madhya Pradesh and West Bengal. At present, the entry tax on motor vehicles ranges from 3 per cent for trucks, bus chassis, jeeps and tractors to 14.5 per cent for motor-cycles, scooters and motor cars^[32]. Delhi also levies entry tax, but the scope is limited to vehicles. The rate depends upon the period of use of vehicles in other States and the amount of taxes paid there.

Passenger Tax

7.20 Passenger tax is not charged by all States. While it is levied in the States of Assam, Bihar, Gujarat, Haryana, Maharashtra, Uttar Pradesh, it is not levied in Andhra Pradesh, Karnataka, Kerala, Nagaland and West Bengal. In some States like MP, Orissa, Punjab, Rajasthan, it is merged with the MV tax and is generally related to the bus fare. There are State-wise variations in rates, as well as in the manner of levy. For example, in Maharashtra and Gujarat, it is levied at the rate of 17.5 per cent on the basic fare. In Uttar Pradesh, it is 16 per cent on the basic fare, with a surcharge of 23.72 per cent. In Himachal Pradesh, it is 40 per cent on the basic fare, with a surcharge of 20 per cent.

Fiscal Importance and Buoyancy

7.21 The yield from all taxes on road transport vehicles taken together has increased considerably over the years. Passenger and goods taxes have also increased in importance.

7.22 The fiscal significance of motor vehicles tax and passenger and goods tax varies across States. In 1996-97, the lowest share (2.31 per cent) was in Tripura. In the case of Jammu & Kashmir, the contribution was 26.13 per cent, the highest among States. In most States, the contribution to tax revenue is less than 10 per cent, sometimes between 6 and 9 per cent. Andhra Pradesh (11.37 per cent), Arunachal Pradesh (12.78 per cent), Haryana (14.99 per cent), Himachal Pradesh (19.35 per cent), Madhya Pradesh (15.48 per cent), Manipur (12.11 per cent), Meghalaya (11.19 per cent) and Mizoram (18.44 per cent) are exceptions.

7.23 The buoyancy coefficient of the motor vehicles tax (computed for the last 10 years) indicates the response of motor vehicles tax with respect to State domestic product (SDP). The coefficient for all States was less than unity (0.87), except Assam (1.23), Bihar (1.23), Haryana (1.08), Madhya Pradesh (1.33), Kerala (1.13), Orissa (1.53) and Tamil Nadu (1.01). There is potential for growth and the scope and buoyancy of the tax can be improved, if it is efficiently administered.

Barriers to Inter State Movement: Commodity-related Taxes

7.24 An important feature of the prevailing tax system is the existence of a large number of barriers for passenger and goods. Documents received by check-posts help the transport department to monitor flow of goods into the State and also make an assessment of tax. These check-posts, however, interfere with the free flow of traffic within a State and cause harassment to a large body of dealers, the majority of whom are not liable to pay tax. Studies undertaken on the efficiency of check-posts in different States reveal that the existence of check-posts does not contribute significantly to checking tax evasion. On the contrary, the more the number of check-posts, the higher is the wastage resulting from stoppage of traffic.

State Sales Tax

7.25 Sales taxes are levied by States in diverse forms, through State-level legislation. They vary in structure – namely, points of levy and rates - as well as administrative procedures, although some

common features are discernible. Neither the structure nor the procedures are, however, simple. With the shift in the point of levy to the first point, the problems in excise taxation associated with definition of manufacturing, under-valuation and commodity classification are revisited when one looks at sales tax systems. In sheer complexity and irrationality, sales tax systems, as they are structured and implemented at present, surpass excise at its worst.

7.26 Multiplicity of taxation is further complicated by the inclusion of additional surcharges. Driven by pressures to raise revenue, most States have resorted to levies in the form of surcharges (SC), on the one hand and additional sales tax/turnover tax (TOT), on the other. Surcharges currently exist in more than 10 States, the base being the amount of general sales tax (GST) and in some, total of both GST and TOT are payable. The TOT in most cases is a multi-point tax. It is levied on gross turnover of dealers with sales in excess of the exemption threshold, and this applies to intermediate dealers, even in States where the general sales tax is largely levied at only one point.

7.27 To minimize the problem of collecting tax from sale of farm products like paddy, sugarcane and fruits, a commonly followed practice is to levy the tax on purchase at the last point (e.g. on the rice miller for the purchase paddy, sugar manufacturers in the case of sugarcane, etc.) These changes have come about either by way of amendments in the basic law governing the levy of sales tax, or through enactment of supplementary laws. In several States, laws relating to sales tax are embodied in more than one piece of legislation. A classic example is West Bengal, where the tax on sale and purchase of goods is governed by as many as four pieces of legislation:

The Bengal Finance (Sales Tax) Act, 1941
The West Bengal Sales Tax Act, 1954
The West Bengal Motor Spirit Sales Tax Act, 1974
The Bengal Raw Jute Taxation Act, 1941

7.28 Apart from these, there is another form of sales tax, namely the Central Sales Tax (CST) Act, 1956, the legislation authorizing the levy of tax on inter-State sales, enacted by Parliament with powers delegated to States to administer it and retain the revenue.

7.29 The complexities of multiple levies and legislations are compounded by the multiplicity of rates. Invoking considerations ranging from social justice and equity to promotion of trade and industry within the State, the rates of sales tax are differentiated across commodities. The number of rates in most States varies between six to twelve slabs and leviable rates vary between 0 and 150 per cent. In general, non-luxury foods and certain other basic necessities are taxed at approximately 4 per cent, while other items attract tax at rates in the range of 8 to 15 per cent. The TOT is levied mostly at graduated rates. The rates of surcharge vary from 5 to 25 per cent. There are also instances of exemption, either to reduce the regressivity of the tax, or as incentive to a particular industry. Such tax rate structures and exemptions are essentially State-enforced practices of distorting market forces.

7.30 Besides the State taxation regime, an additional duty of the State is to collect the Central Sales Tax. There is a ceiling on the rate at which CST can be levied. Initially fixed at 1 per cent, the rate currently stands at 4 per cent. This rate applies to sales to a registered dealer. Sales to unregistered dealers (such as retailer or consumer of final products) attract tax at 10 per cent or the rate applicable on local sales, including additional sales tax and surcharge, whichever is higher.^[33]

Problems of Commodity Taxation

- Complex Structure
- Pitfalls of first-point sales taxation
- Ill effects of excluding services^[34]
- Multiplicity of rates and levies
- Economic distortions and tax cascading

- Pernicious effects of inter-State sales taxation
- Tax competition between States
- Cascading and distortions in location of industry
- Hidden tax on international exports

7.31 Since CST is applicable to sales, inter-State movement of goods as consignments has not been liable to any CST in the exporting State. Finding that this was being used on a large scale to defeat inter-State sales taxation, the constitution was amended in 1982 (46th Amendment) to authorize the levy of sales tax on consignments. The legislation to implement the levy on consignments is still awaited. It is now being realized that taxation of inter-State sales has been a major source of inefficiency and inequity in the system.

Cascading Effect

7.32 Taxes on the road transport sector have a cascading effect. As taxes on inputs and semi-finished products are substantial, they affect the final price considerably. The cascading effect is maximum on trucks (58.9 per cent) and less on cars and scooters (51.6 per cent and 50.9 per cent respectively). The tax incidence on a 'TELCO' truck worked out for the four metropolitan cities (Mumbai, Kolkata, Delhi & Chennai) indicates that the maximum tax (about 65.8 per cent) is borne by consumers of Mumbai, followed by those of Kolkata, Delhi and Chennai, where consumers paid taxes of 62.0 per cent, 56.3 per cent and 63.6 per cent respectively.

Incidence of Taxes

7.33 The combined burden of Central and State taxes is substantial. Over the years, this burden has increased continuously. In 1996-97, the burden of Central taxes was around 1.4 times that of the States.

7.34 Among Central taxes, the maximum amount was contributed by the Union excise duty on motor vehicles and accessories (30.14 per cent), motor spirit (19.93 per cent) and HSD (19.63 per cent). Among States, the motor vehicles tax, sales tax on motor spirits and lubricants and taxes on passengers and goods contribute 53.62 per cent.

7.35 According to a World Bank Study (1989), the incidence of taxes is inefficient. Vehicle taxation is road damage related, but levied on the basis of gross vehicle weight rather than on potential axle loads, resulting in under-taxation of 2-axle trucks compared to those with more axles. Since the former is a major source of revenue to States (accounting for one-fifth of revenue from road users), there is need for its rationalization, to ensure that the tax burden is distributed fairly among different types of vehicles according to PCUs (Passenger Car Units) as well as the road damage caused by each type of vehicle, according to the equivalent standard axle (ESL). This would require a very detailed enquiry. A useful exercise would be to rationalize the tax structure in such a way as to reduce the burden of taxation on the operating cost. "If transport is regarded as a service, a more proper way of assessing the tax burden would be to determine the extent to which the tax enters into the cost of such services i.e. the fares and freight charged" (*Motor Vehicle Taxation Enquiry Committee*, GOI 1950).

7.36 Committees in the past have pointed out the high burden of taxation on vehicles *per se*, as well as on the operating cost. *The Road Transport Taxation Enquiry Committee* (GOI, 1967) indicated that for vehicles, "in all 43 per cent of the ex-factory price or 34 per cent of the final price for the consumer goes for taxes and duties". Such a calculation did not take into account the tax element in the cost of materials out of which truck bodies are made. Taking into account all elements, the study by NCAER (1979) found the burden to be around 65 per cent. As for the tax element in the operating cost, the *Road Transport Taxation Enquiry Committee* (GOI, 1967) came up with a figure of 35.2 per cent. The NCAER's figure was higher at 42 per cent. The corresponding figures for UK and US were 5 per cent and 17 per cent respectively, in the early sixties. Our own estimate of the tax burden in the price of the vehicle is 31 per

cent, and in operating costs the figure is 56 per cent. A high tax burden would naturally affect competitiveness of our products. While it may not be reasonable to expect this burden to come down to levels obtaining in the advanced countries, rationalization should necessarily lead to efficiencies (Newbery and Stern, 1987, Ray, 1993). While it is expected that the adoption of VAT on a much larger scale than at present would reduce the cascading effect to some extent, there is a widespread feeling that the burden would continue to be substantial.

Overview of Tax Litigation

7.37 The litigation figures are an example of the inefficient tax administration in States. As in the case of Union Excise, the complex and irrational structure of the sales tax system has created a huge backlog of unresolved disputes before the appeal authorities and courts. The number of cases pending for decision before the appeal authorities exceeded 57,000 in one State alone (West Bengal). Even in a relatively small State like Kerala, over 20,000 cases were reported to be pending for adjudication before the Appellate Tribunal only^[35]. In the National Capital Region of Delhi, nearly 40,000 cases were pending before the appellate authorities at the end of 1991-92, whereas the total number of registered dealers was no more than 119,243. It speaks ill of the tax administration system where assessments are disputed on this scale and remain undecided for long periods. In commodity taxes in particular, such litigation creates uncertainty in incidence for years together. When the cases are finally decided, problems arise in the implementation of judgements. If they go in favour of the assessee, refunds can lead to 'undue enrichment', while adverse judgements cause problems to assessees as they cannot recover the tax from their customers.

7.38 The following figure is a schematic presentation of the systemic mess in the taxation system. The starting point in the vicious circle is the poor compliance by taxpayers and weak enforcement of tax laws by administrators. The enforcement may be weak because of administrative inefficiencies, and also because of the prevalence of corrupt practices. These factors lead authorities to impose tax at the first point of sale. The narrow tax base at this point necessitates higher tax rates, extension of tax to business inputs with nil or only partial rebates, and experimentation with supplementary taxes in the form of surcharges and turnover taxes. The higher rates and the cascading lead to increased tax avoidance and inter-State competition, thus creating pressure for industrial incentives. These forces further undermine revenue potential of the tax system, and elicit policy response in the form of yet higher rates, supplementary taxes, ad hoc adjustments and even more harmful taxes like the octroi and entry tax. The result is more and more complex tax structures, which can only worsen compliance and enforcement. The problem with sales tax systems have become so acute and intractable that little room is left for maneuvering on the part of any individual State singly.

7.39 MODVAT and VAT will rationalize the commodity taxation system to some extent. But transportation equally suffers from the tax levied on motor vehicles under the Motor Vehicles Act. Various committees set up by the Government of India have proposed considerable changes in the motor vehicle taxation system.

Rationalization of Motor Vehicle Taxes

7.40 In view of the varying structure of base, rates, nature and the types of taxes levied in different States, it is important that we aim at a tax system which is: (i) neutral, (ii) efficient in allocation of resources, (iii) administratively expedient and (iv) avoids cascading. Keeping these objectives in view, we present below possible reforms in the rate, the basis and the types of taxes mentioned above.

7.41 The first attempt at rationalization of motor vehicle taxes was made by the government on receipt of the report of the *Indian Road Development Committee* (Jayakar Committee) in 1927. The committee had suggested: (i) compounding of local taxes into one Provincial Tax and (ii) abolishing of tolls altogether. Following these recommendations, tolls were abolished in most States on private cars, but were retained on commercial vehicles. Other committees set up included the following.

- (i) Motor Vehicle Taxation Enquiry Committee (1950) (Dalal Committee)
- (ii) Road Transport Reorganisation Committee (1959) (Masani Committee)
- (iii) Committee on transport Policy and Co ordination (1966) (Tarlok Singh Committee)
- (iv) Road Transport Taxation Enquiry Committee (1967) (Keskar Committee)
- (v) National Transport Policy Committee (1980) (Pande Committee)

7.42 Briefly, all the committees have stressed that the approach to motor vehicle taxation should foster development of the road transport sector. These committees have also highlighted disparities in the basis and rates of taxation in different States, multiplicity of taxes, etc. They have unanimously recommended major simplification in the tax procedures and have favoured single-point taxation, especially in the case of inter-State traffic. With regard to the issue of uniformity in the rates of taxes prevailing in different States, there are elements of similarity, though the emphasis differs. While the Tarlok Singh Committee recommended that the taxation of motor vehicles throughout the country should be regulated by the central government, the Pande Committee pointed out the need for uniform basic rates between States, so that the incidence of taxation in the neighboring States is comparable.

7.43 No action has been taken by the government for introducing reforms in the area of motor vehicle taxation. The AITD Steering Committee observed that operators were particularly irritated over inter-State variations in tax rates and the procedure for collection. The representatives of the All India Motor Transport Congress and other transport associations suggested that the existing system of granting

national permits with endorsement of different States should be abolished and that there should be only two categories of permits, inter-State and intra-State permits. Generally a truck operator seldom moves out of a particular zone; his operations are restricted to three or four States. Loading/unloading operations do not take place in all States. As such, payment of equal amount of tax for all States seems illogical.

Proposals for Rationalization of Motor Vehicle Taxes

7.44 The AITD Steering Committee concluded that the present system of motor vehicle tax needs to be streamlined/rationalized. Different rates of MV tax in different States have created imbalances in the economy, giving rise to unhealthy competition among States. This needs to be checked through legislative measures. The various recommendations for rationalization of taxes can be grouped under the following heads.

Uniformity in Tax Structure

7.45 Lack of uniformity in motor vehicle tax causes diversion of vehicle registrations to States where the tax rate is low. One possible method is that rates are fixed by the Central government instead of by State governments. This would, however, require amendment of the Constitution, transferring the subject from the State list to the Central list.

7.46 Considering that State governments have limited avenues for raising resources, which include sales tax, land revenue and MV tax, the takeover of the power of taxation by the Centre is expected to encounter strong opposition by States. Even if one considers only inter-State operations for purposes of uniformity, one has to appreciate that a large number of commercial vehicles registered for inter-State operations also enter intra-State operations, making it difficult to segregate the two operations. As such uniformity, in motor vehicle tax, although desirable, may not be practical in a federal system. Therefore, efforts should be made to at least bring parity of tax rates in neighboring States, so that the problem of diversion of registration of vehicles from one State to another is resolved.

Uniform Basis for Levying Taxes

7.47 There are different practices with regard to the basis of motor vehicle tax in various States. This has created problems for transport operators. There is need for a general agreement between States on the following uniform norms.

- (i) Stage carriages have different seating capacities and sizes. For these vehicles, the norm could be the seating capacity, along with the authorized number of standees.
- (ii) Contract carriages are required to be addressed as a whole; hence a lumpsum tax depending on the registered seating capacity of the vehicle would be suitable.
- (iii) Small vehicles, that is, those that are used on a hire basis like taxis and 3-wheelers, should have a flat rate for the sake of convenience of making payment.
- (iv) In respect of goods vehicles that are expressed in terms of GVW, the basis for levy of tax should be the GVW recorded in the registration certificate of each vehicle. Such rates would also be applicable to the trailer, independent of prime movers. When any truck is independently registered, the rate of tax should be based on its maximum propulsion capacity. A suggestion has been made that the MV tax must be ad valorem. The reasoning is that to have buoyancy in the tax system, it would be useful to resort to a tax system that is based on the cost of vehicles, with an additional factor of occupancy or length of routes or goods dispatched. However, this may result in higher taxes on multi-axle vehicles that ought to be taxed somewhat lightly relative to two-axle vehicles. For example, the excise duty structure may provide an incentive for purchase and use of MAVs and articulate vehicles. In line with this, excise duty on MAVs may be reduced to levels that were prevalent before 1996. Further, the MV tax should also provide incentives for possessing such vehicles.
- (v) In respect of goods vehicles operating under the national permit scheme and tourist vehicles under the all India Tourist Permit scheme, the basis for tax should continue to be a composite fee in lieu of all taxes payable per plying State/UT, as is the system at present.

Combined Road Tax, Passenger Tax, Goods Tax, Etc.

7.48 Rajasthan and Andhra Pradesh have already amalgamated various taxes successfully. This has helped in reducing costs of collection and has also led to saving in time for vehicle owners. More importantly, tax revenues realized have not suffered after such amalgamation. Such experiences should be replicated in other States.

One-Time Tax

7.49 At present, some States have one-time MV tax on personal vehicles. This has advantages in terms of saving time, as also in the cost of handling the tax administration. The system of one time tax payment was examined by the AITD Steering Committee in the context of tighter emission norms announced by the government. These norms are applicable to new vehicles. There are no norms for on-road vehicles, which contribute substantially to air pollution. It is understandable that the government is considering the introduction of an effective Inspection and Maintenance Programme for on-road vehicles to check emission-related aspects. At present, revalidation of the fitness certificate of a vehicle is required after 15 years. Keeping in mind the need for emission control, one of the AITD recommendations was that the renewal of fitness certificate for non-transport vehicles should be mandatory after 5 years and subsequently after every 3 years, so that inspection is done on a regular basis after a reasonable interval of time. In case of transport vehicles, renewal of fitness certificate should be on annual basis. Accordingly, one-time tax payment will need to be modified to suit the proposed Inspection and Maintenance Programme.

Local Taxes

7.50 As for local taxes, these too vary significantly from State to State. Octroi is still in place in some States, including more progressive ones like Maharashtra. Despite recommendation for its abolition by almost every committee set up to examine road taxation in the past, the recommendation has not found favour on the plea that octroi gives access to funds on a day-to-day basis. This would not be possible with an alternative like local sales tax. This is not a compelling argument. Rajasthan has done away with octroi. Some States levy an entry tax as a substitute for octroi. This is an account-based levy, collected as per cent of turnover. The yield from entry tax has shown much higher growth than sales tax revenue of the State concerned. In Karnataka, for example, the revenue from sales tax has increased at a rate of 20 per cent, while the yield from entry tax has increased by 35 per cent. The growth of revenue from entry tax in Madhya Pradesh has also been impressive.

7.51 It was reported by the All India Motor Transport Congress that a truck travelling in 4 to 5 States, spends on an average Rs. 10,000 to Rs. 15,000 towards levies of local bodies in a month (about 4 to 5 trips).

Lease Tax

7.52 The State governments should seriously consider withdrawing lease tax levied on pure financial transactions of commercial vehicles. Similarly sales and turnover taxes levied on transactions under hire purchase and lease of vehicles must be withdrawn. These measures will give a boost to the leasing of vehicles.

Cap on Tax Burden

7.53 The present high burden of tax at 31 per cent on the price of the vehicle and 56 per cent on its operating cost affects the competitive position of products. It is essential that measures should be taken for rationalization of taxes so that the tax burden is limited to between 15 and 20 per cent.

Single Agency

7.54 A single agency should be entrusted with the task of collecting the MV tax, the passenger/goods tax and even fees for national permits. This will greatly reduce the time spent at different counters set up for the purpose.

Pollution Abatement Incentives

7.55 Considering the high concern for pollution control, some incentives could be built into the tax system for promotion of non-polluting vehicles. The structure of tax on motor vehicles in most countries follows differentiation on the basis of fuel use or catalyst or use of leaded or unleaded petrol. It is therefore, recommended that built-in fiscal incentives be promoted for pollution abatement.

Incentives for Attaining Policy Objectives

7.56 Motor vehicle taxes could be used to encourage the plying of multi-axle vehicles (MAVs). It is common knowledge that overloading of 2-axle vehicles causes excessive damage to roads. Transportation of heavy loads without causing excessive damage to road pavements can be best achieved by using MAVs, as these can distribute the load on more axles, thereby causing comparatively less damage. Besides, these vehicles are fuel efficient, economical and eco-friendly.

7.57 Tax policy can also be used to achieve noise reduction and higher revenue from expensive vehicles. The tax rate can be inversely related to noise pollution and positively to the value of vehicles, exceptions being made in the case of MAVs.

Levy of Entry Tax

7.58 There is diversion of sale of vehicles and payment of motor vehicle taxes to States where the rate of sales tax is low. At the time of registration, entry tax should be levied to equalize the amount of MV Tax. This will discourage people from registering in a State where the rate of sales tax is low.

Evolving Principles of Taxation

7.59 Entry 35 in the Concurrent List requires the government to lay down the principles of taxation. However, no attempt has so far been made, either by the Central government or by State governments to implement this. Considering the burden of MV taxes on commercial vehicles, there is a need to lay down principles for taxation to serve as guidelines to States when they decide on tax rates. Various reports of expert committees set up by the government in the past have enunciated some general principles.

To give due consideration to the capacity to pay.

To ensure reasonable rate of return for the operator and to provide funds for growth and expansion.

To evolve parity in tax structure between States.

To make sure that the amount of tax is related to the cost of operation, fuel and freight rates, vehicle utilization, road construction programme etc.

To bring down the number of taxes to the minimum, by combining two or more taxes, such as passenger and goods tax.

To set up a single agency for collection of various taxes.

The AITD Steering Committee recommended the setting up of an independent central authority; its functions were to include laying down principles for taxation.

Inter-State and National Permits

7.60 Vehicles that operate within a State must obtain a permit by paying the motor vehicle tax of the State. Where vehicles operate in more than one State, there are two broad categories, (i) counter-signature permits and permits under reciprocal agreements, and (ii) national permits introduced by Government of India in 1975 for movement between the home State and three or more other States.

7.61 In the case of the counter-signature permit, the operator is required to pay the tax of the home State as well as the tax of the other State. For national permits, he pays the tax for the home State and also provides demand drafts at the rate of composite tax for each of the other States. Transport Development Council recommended that UTs and small States should charge composite tax of Rs 3000 and larger States Rs. 5000 for each State other than the home State, on a uniform basis. In practice, this recommendation has not been followed by most States. Also, there is considerable delay in forwarding demand drafts to concerned States. This creates problems of revalidation of drafts, as well as arrears of revenue due to non-realization of drafts in time.

7.62 The AITD Steering Committee suggested that inter-State permits and counter-signature permits or reciprocal agreement permits should be abolished. There should be national permits for all inter-State operations. This will have the following advantages:

- (i) The time consuming process of issuing counter-signature permits will be removed.
- (ii) Payment of MV tax by the operator at one counter will save time.
- (iii) This will protect the interests of operators who ply in less than three States.

The AITD Committee also recommended a telescopic fee structure for inter-State permits.

Payment Arrangements for National Permit Fee

7.63 As already mentioned, vehicles covered by national permit authorization are required for 3 or more States apart from the home State, and motor vehicle tax has to be deposited through bank drafts. The drafts of the composite fee are deposited in the permit issuing transport office and such drafts collected during the month are sent to the Transport Commissioners of the concerned States. There is however delay in forwarding the drafts by the home State and receiving these drafts at the headquarters of the concerned State, creating the problem of revalidation of drafts, as well as arrears of revenue due to non-realization of drafts in time. To remove such difficulties, the AITD suggested that the payment for composite tax should be made in authorized banks in favour of the State concerned. Besides, it should be the bank's responsibility to transfer the payment to the account of the concerned agency and transfer the payment to the account of the concerned State.

Chapter 8: Other Barriers in Trucking Operation

8.1 The preceding sections have highlighted regulations and tax related barriers. But free flow of commerce is obstructed due to a variety of other reasons. Logistics, paper formalities, etc. are scores of other impediments, which consume lot of time and cause excessive delays. Any obstruction in the movement of goods leads to an increase in cost, whether it is on account of taxation, regulation or inefficiency. Such barriers are basically fundamental to the systemic framework, and are also responsible for frequent delays and stoppages. For example, the complex paperwork required with the consignment and fixing responsibility for any mistake.

Complex Paperwork

8.2 There are almost 58 forms contained in the Central Motor Vehicles Rules, 1989. In all, 186 different kinds of basic information are collected by the various transport departments of States and Union Territories. The forms are usually not user friendly and much of the information required to be filled-in is repetitive in nature. The entire range of forms (1-58) suffer from redundant information. For instance, every application for issue of learning license shall be accompanied by a medical certificate in Form 1-A.

An application for a medical certificate (Form 1) contains the applicant's declaration pertaining to his/her physical fitness. The information sought in Form 1A under item number 3 is a repetition of the information sought in Form 1. Moreover, once physical fitness of the applicant is certified by the competent authority (Medical Officer), the applicant's declaration in this regard does not serve any purpose. The applicant address is classified into permanent address, temporary address, official address, etc. Sub-classification of the applicant's address leads to unnecessary complications and does not serve any specific purpose. Likewise, both the date of birth and age of the applicant have to be furnished in many forms. Form No. 2, Form No.4 and Form No. 6 contain details of vehicle classification as motor cycle with or without gears, invalid carriage, light motor vehicle, heavy motor vehicle, medium goods vehicle, medium passenger motor vehicle, heavy goods vehicle and heavy passenger motor vehicle, with the intention that the applicant should tick mark one of the vehicle categories.

8.3 There are other such discrepancies in all the Forms, from 1-58. There are scores of other forms related to goods, C-Form for Central Sales Tax, Form 31 and 32 for Entry and Exit Permit in Uttar Pradesh. Each State has its own set of forms related to vehicle movement and commodity transported. Complexity in paper work can be translated into costs and such costs ultimately increase the operational/transaction cost indirectly. Annexure 1 shows the multiplicity of data required in various forms. Annexure 2, which is indicative, shows how this multiplicity of information can be collapsed into a single form. This can be submitted in advance, even electronically, before a truck reaches a check-post. And in such instances, clearance at the check-post can be automatic. Such smart forms and smart cards will eliminate barriers to movement for 90 to 95% of trucks and detailed scrutiny will only be necessary in 5 to 10% of cases. Such attempts have been successfully experimented with in countries like Hong Kong and Singapore. A necessary pre-requisite for such experiments to be successful is removal of the present policy-induced cum legislative bias in favour of small truck companies and single-truck owners. Large companies will not only improve the lot of drivers, as they have in countries like the United States, they will also make trucking operations more efficient by exploiting economies of scale and make financing easier.

Complex Practices

8.4 A buyer in Lucknow has made a purchase from Mumbai. Any goods entering Uttar Pradesh must be accompanied with Entry Permit - Form 32. Form 32 requires basic information to be filled in with regard to the consignment, for example, nature of the commodity, name and address of the seller, total amount of goods in terms of quantity and value, name of the transporter, registration number of the truck, date of despatch, etc. The buyer at Lucknow is supposed to fill in the form and send it to the supplier at Mumbai so as to enable the Entry Permit Form 32 to accompany the consignment. It is practically not possible for the buyer at Lucknow to know the name of the transporter and the truck number that will be carrying his consignment to Lucknow at the time of purchase. So as part of the deal, the buyer sends a blank Form 32 to the seller at Mumbai so that it can be filled in appropriately. It must be ensured that no cutting or eraser is used on the form.

8.5 The seller at Mumbai fills the document with requisite information regarding sales, but still leaves the form incomplete because he prefers to transport the consignment through a transporter, who can despatch the consignment for Lucknow on an immediate basis. Thus, the supplier sends the incomplete form to the Booking Agent. The Booking Agent identifies the transporter and sends the necessary receipts along with an incomplete Form 32. This is understandable because he is not aware of the truck number, which will carry the goods.

8.6 On the transporter's premises, the person responsible for loading and unloading is the supervisor for a big company and a driver in the case of a small company. Nevertheless, the transport supervisor inspects loading of the cargo and hands over the papers to the driver. The driver fills the requisite details in Form 32 to the best of his abilities. Thus, at the end of a transaction, the entry or exit permits are essentially filled by drivers, rather than purchasers or sellers, because of the informational requirements. If the driver has made some mistake or his entries are illegible in Form 32, the truck will be detained at

the Uttar Pradesh border, say Ghaziabad. Eventually the purchaser will have to come to Ghaziabad and take up the usual recourse of 'dispute resolution' to allow the consignment to travel to Lucknow. In the entire chain of events, the purchaser suffers for no fault of his. The seller suffers in terms of payment delays. The transporter suffers because his vehicle is out of business. The driver suffers in terms of detention. In reality, the fault lies in the form or in the type of information required in the form.

8.7 This is a common phenomenon for all such types of forms. For instance, the purchaser sends an incomplete C-Form as part of the essential requirement of an inter-State transaction to the seller, so that the seller can include usual discounts and commissions in the total value of goods that need to be shown for tax purposes. Likewise, there are other discrepancies in forms that accompany the receipt and consignment.

Law & Order

8.8 The pervasive effect of the poor law and order situation is also seen in the transportation of goods. Frequent looting of consignments on the way is one such example. But more alarming is the phenomenon of 'chakka' jam practices that is gaining large acceptance. Frequent 'chakka' jams on the national highways are increasingly impeding. By the time law enforcement agencies arrive on the scene, there are long queues of motor vehicles. For example, a 'chakka' jam on NH-2 due to a hit and run case resulted in blockade of traffic for more than 8 hours. The blockade ended when the local authorities agreed to pay compensation to the family. Such incidents are becoming too frequent on our national highways.

8.9 Traffic movement also suffers on account of bandhs and strikes. In the last year, NH-28 was closed on fourteen occasions for about 4-6 hours because of bandhs and strikes called by various political parties. Success of bandhs or strikes is measured in terms of traffic closed on highways or railways. But restoring the traffic movements on major highways after a bandh call can further delay smooth movement of traffic by almost 5-8 hours. All such stoppages on the highway can be easily avoided if the law enforcement agency is efficient and effective.

8.10 Another example of weaknesses of the systemic framework is that all barriers and check-posts are not at one location. Each department has its own scantily manned check-post at more than one place. But more than that, civic authorities in major townships have banned the movement of heavy goods carriers between specific working hours for safety reasons. In the absence of bypasses in the road network, if a truck has to pass four such cities on its way to the final destination, this can result in stopping the vehicle for more than 8 hours, depending on the time of arrival at the first crossing. The prohibition stands valid for all heavy traffic movement, whether the goods are going to be unloaded in the city or just pass to some other destination. In both cases, the vehicle is detained.

8.11 Then there is harassment by police and RTOs. The highway police units are supposed to ensure smooth traffic flow on highways and take immediate action in case of accidents, traffic jams, road-robberies etc. But the AITD survey revealed that the police and RTOs play an exactly opposite role. The town police, and even the rural police at outposts, stop trucks with the help of wooden barriers or barrels at night hours and demand money. As mentioned earlier, regular drivers are well acquainted with these practices and they even know the exact locations and 'working hours' of these squads. As a result, they adjust their driving hours to avoid confrontation with these squads as far as possible. As a consequence, they eventually over speed to cover the time and backlog or to pass a certain place before certain hours. This practice is dangerous from the safety point of view. The RTO check-posts en-route mainly function as revenue collection centres for individual benefits rather than for State exchequers. Overloading is openly allowed in Maharashtra and Gujarat at Rs. 100 per MT, without receipt. In Haryana, overloaded trucks are allowed at Rs. 150 per MT, with a receipt issued by the Commercial Tax Department, wherein it is specifically mentioned that this receipt has nothing to do with any action that may be taken for

overloading under the MV Act or any other Act. Mechanical tax collection in Orissa is about Rs. 800 per vehicle per calendar month or part thereof.

An Observation

8.12 In general, the road conditions are poor, barring a few stretches. The worst road conditions are in Bihar, where the surface is totally washed out and has been in that condition for several years. Road makings and traffic signs are almost non-existent, with a few exceptions. The AITD survey team observed as many as 30 accidents on NH 2 in Bihar, including a few head-on collisions due to drivers trying to avoid pot-holes while in speed. Several overturned vehicles and those with broken axles and spring assemblies were also observed. In every city/town en-route NH-2, ribbon development of habitats and other commercial activities was observed. Slow moving vehicles like bicycles, scooters, tongas, auto rickshaws as well as pedestrians were seen to be mingling with the through traffic.

Chapter 9: Costs and Rewards

9.1 The usual impression is that the truck business is lucrative. A single truck operation in one year can add another truck to the fleet. Costs and rewards in truck business need to be judged on the basis of their compliance with the tax and regulatory regime. In terms of costs, the transportation sector confronts a variety of direct and indirect costs. For instance, transportation activities have significant environmental, social and economic impacts. Sustainability planning and cost impact analysis requires consideration of all these impacts. But current transport-related planning focuses on a few impacts, particularly the quality of vehicle traffic (roadway level of service, congestion delay, average traffic speeds). This assumes that public resources should be allocated to transportation improvements based on current travel behavior, and that the problem with motor vehicle traffic is that there is not enough of it. This directs investments towards highway improvement, to accommodate growth in vehicle travel, rather than development of better forms of access.

9.2 Current planning and investment practices over-emphasize highway capacity expansion. Such objectives tend to contradict other sustainability goals by leading to more automobile dependent transportation and land use patterns. Increasing the capacity of congested roads tends to reduce two costs (congestion delays and vehicle costs), but increases many others over the long term, as indicated below.

9.3 Overemphasizing highway capacity expansion rewards high-mileage drivers at the expense of people who drive less than average or not at all. Rather than simply measure a transportation system's ability to move vehicles, a more appropriate index is based on "mobility," that is, the movement of people. But as far as goods transportation is concerned, increasing the highway capacity is an integral part of transport planning. However, mobility is an inadequate index, since it implies that movement is an end in itself rather than a means to an end. The best transportation indices focus on "access," the ability to reach goods, services, activities and destinations. Access can often be achieved with reduced movement, for example, by telecommuting to work, by improving delivery systems, removing regulatory and other barriers, and through land use changes that reduce the distances between residences, employment and services. Traffic congestion can exacerbate other costs (accidents), road and parking facility costs and some types of environmental-related costs.

9.4 To estimate in terms of costs and rewards it is essential to break up the entire delivery process into four stages, namely, Stage-1: Loading, Stage-II: Journey Time, Stage-III: Stoppages & Delays, Stage-IV: Unloading and Return Journey.

Transportation Costs Affected by Increased Roadway Capacity

<i>Costs Reduced by Increased Road Capacity</i>	<i>Costs Increased by Increased Road Capacity</i>
Goods Transport	Passenger Transport

Congestion delays and vehicle costs

Total vehicle costs
Parking
Road facilities
Accidents
Air pollution
Resource externalities
Waste disposal
Barrier effect
Municipal service costs
Land use impacts
Water pollution
Roadway land
Noise
Equity & option value

Stage-1: Loading

9.5 The AITD survey revealed that the goods carried were loaded through brokers by paying lump-sum amounts as commission. Taking the example of a Mumbai-Delhi journey, it was found that the truck was overloaded. It was also reported that the total loading time is approximately 1/4th of the total trip-time. A similar finding was also observed for loading/unloading on Delhi-Calcutta and Delhi-Chennai trips. This was mainly because of long queues for loading, specific hours to access warehouses under municipal limits, etc. The longest waiting time in queues for loading a consignment was around 32 hrs, inside the plant during the Chennai-bound trip. No compensation is paid to the truck owner for such delays. Loss in terms of working hours in loading can vary between 24-48 hours.

Stage-II: Journey Time

9.6 It is difficult to estimate approximate journey time for major locations, because of high degree of uncertainty on the highway. There are various reasons for stoppages, it can be regulatory, maintenance, etc. But occasionally, it can be also related to the poor law and order situation. Truck operators with long term arrangement with various official agencies (monthly rent paid to the agencies for trouble free trip) rarely get their trucks detained. There are also instances when the truck driver, as a regular visitor, has cut out deals by paying a paltry amount at the check-posts. Such instances are common for short-distances or movement between one or two States. On long distances, such arrangements cannot be worked out, because of the interplay of a wide variety of State departments. Therefore, the focus is on the driver to pay and move, in cases where the firm has not been able to cut out a long-term deal with the official agencies.

9.7 In the light of the above, the following trip time based on the AITD field survey may have some limitations. But it can indicate a general pattern of trip time.

Distribution of Trip-Time by Activity

9.8 Total trip time and its distribution into actual moving time and halting time, as well as further break-up of halting time for different reasons, is as follows.

Table 1: Distribution of time by activity (% to total trip time)

Activities	Mumbai-Delhi	Delhi-Calcutta	Calcutta-Chennai
Total Trip Time (Hrs.)	62.5	89.5	142.5
1. Moving time	69.2	54.4	38.0
2. Total halting time	30.8	45.6	62.0

3. Loading/Unloading	7.5	24.8	25.3
4. Getting Papers/Advance etc.	7.1	0.5	-
5. Octroi, RTO & other check-posts	4.8	2.4	1.8
6. Diesel top-up & mechanical attendance	2.9	0.4	3.8
Meals/Snacks/Bath & Rest	8.5	17.5	31.1

9.9 The percentage of actual moving time to the total trip time was 69.2 per cent, 54.4 per cent and 38.0 per cent for Mumbai-Delhi, Delhi-Calcutta and Calcutta-Chennai routes respectively. The comparatively lower percentage of moving time for Calcutta-Chennai trip is noted, because the percentage of time spent for rest and meals, etc. during the Calcutta-Chennai trip is higher than the first two trips. This is essentially due to single driver operations. Total trip time of 142 hour and 30 minutes is also high for this trip due to the same reason.

9.10 Contrary to perceptions, the AITD survey shows that the percentage of halting time at different check-posts is between 2 per cent to 5 per cent of the total trip time. On the basis of personal interviews, many drivers rejected this observation. Some of the reasons attributed for this anomaly are a single time observation on each route, regular drivers operating, and a lopsided field survey biased in favour of large firms who had established close relations with check-post staff and were well acquainted with short-cut ways of getting clearances easily.

9.11 It may not be out of place to mention that all the drivers of these three trips knew the timings and locations of RTO flying squads in different States en-route and thus successfully managed to avoid their encounter on many occasions. This is stated in the AITD survey report.

Average Speeds Observed

9.12 The following table shows the overall average of each trip, based on the actual moving time only. There is no significant variation in the average overall speed per hour for the three routes. However, further analysis of speeds attained in different States shows wide variation between 17.33 km/h in Maharashtra to 22.05 km/h in Bihar and 50.50 km/h in Haryana. The reasons for this were found to be heavy traffic congestion, poor road surface and even surfaced and wide roads in Rajasthan and Haryana. The hours at which these distances were covered also played an important role, for example, at night roads are almost free of local traffic and other activities.

Table 2: Average Speed in Different States

	Mumbai-Delhi	Delhi-Calcutta	Calcutta-Chennai
Average speed (Kmph)	33.05	30.64	34.13
	MAH- 17.33	HAR -50.50	WB- 29.35
	GJ- 33.33	UP-36.20	ORS- 30.91
	RJ- 44.17	BH-22.50	AP-37.65
		WB-32.20	TN-37.65

Driving Spell

9.13 The details of driver-wise spells during the trips along with actual steering duty hour in each spell and number of halts during each spell, with time spent in such halts is shown below. This is based on the AITD survey.

9.14 Though there were two drivers, the steering duties were not uniform for both of them. The main drivers shouldered the lion's share of driving, whereas the second driver was utilized more or less like a reliever. The steering duties of main drivers are well above 10 hours (even up to 15hrs - 45 min), with a gap between two consecutive duties ranging between 2 to 6 hrs only. The survey also revealed that the

second driver was 19 years old and did not have a valid heavy-duty license. Therefore, he only drove during the stretches that were considered safe.

Stage-III: Stoppages & Delays

Vehicle Conditions & En-Route Maintenance

9.15 The trips from Mumbai to Delhi and Delhi to Calcutta were covered by Tata-make LPT vehicles with high-sided wooden bodies (called Punjab body). The Calcutta-Chennai trip was done by Ashok Leyland CS 1611 model with semi high-sided body. The cumulative kms done by these trucks were 2.90 lakhs, 0.03 lakhs and 0.44 lakhs respectively. The tyre conditions were good, except for the Chennai-bound vehicle. The rear left pair of tyres fitted on this vehicle was almost worn out and the stepney tyre was fitted with nuts and bolts on the side-walls. It was observed that due to the high-sided wooden body and extended and bad road conditions, the unladen weight of these vehicles was higher as compared to the half body trucks typically operated in Central and South India. This resulted in restriction of payload capacity to around 9 MT only, as against 10 MT for the South Indian vehicles. However, from the safety point of view, the high-sided body was much better. Regarding preventive maintenance norms followed, it was observed that nipple greasing was done every 500 kms intervals. Engine oil top-up was not done during any of the three trips en-route. Tyre pressure was checked from time to time, whenever the vehicle halted for any reason and even during traffic jams. All the vehicles were fitted with additional air-pressure horns, with an option of switching over to regular electric horns to be used only in cities.

Table 3: Driving Spell (Mumbai-Delhi)

Driver	Steering Duty (Hours-Min)	Gap Between Consecutive Spell (Hours-Min)	No Of Halts. Time (Hours-Min)	Total Halting (Hours-Min)	Rest Time During Halts (Hours-Min)
I (Main)	7-00	-	1	0-35	0-20
	12-30	4-30	2	1-25	1-25
	15-45	6-55	5	2-05	1-20
II (Second)	4-15	-	1	0-15	0-15
	7-30	7-00	2	1-00	1-00
	9-25	12-45	2	1-30	1-00

Table 4: Driving Spell (Delhi-Calcutta)

Driver	Steering Duty (Hours-Min)	Gap Between Consecutive Spell (Hours-Min)	No Of Halts.	Total Halting Time (Hours-Min)	Rest Time During Halts (Hours-Min)
I (Main)	1-20	-	1	0-20	Nil
	13-05	2-25	2	2-05	1-40
	7-20	4-25	1	0-15	0-15
	10-25	6-20	3	1-25	1-10
	13-45	5-15	4	6-20	3-05
II (Second)	2-20	-	1	0-45	Nil
	1-55	14-35	Nil	Nil	Nil
III (Cleaner)	1-50	-	1	0-20	0-20
	4-15	NA	Nil	Nil	Nil
	5-15	NA	Nil	Nil	Nil

En Route Expenditure

9.16 The total en-route expenditure incurred for the three routes and its percentage distribution under different heads is given below. A further break-up of official and unofficial expenses towards official agencies and octroi, etc. are also shown in terms of percentages.

Table 5: En-Route Expenses Incurred

	Mumbai-Delhi	Calcutta-Delhi	Calcutta-Chennai
Total en-route Expenditure	Rs. 8100	Rs. 6550	Rs. 7500
Distribution of Exp. (% of total)			
1. Diesel & Oil	51.85	64.12	65.83
2. Crew Expenses	7.41	7.63	9.33
3. RTO & Police	29.88	6.71	9.08
Official	(24.8)	Nil	(54.4)
Unofficial	(75.2)	(100.0)	(45.6)
4. Octroi & other taxes			
Check-post Exp.	1.05	3.66	3.34
Official	(29.4)	(12.5)	(Nil)
Unofficial	(70.6)	(87.5)	(100.0)
5. Toll fees	0.80	0.31	1.27
6. Broker's Commission	5.56	5.35	2.00
7. Loading/Unloading	2.22	12.22	3.79
Official	(83.3)	(100.0)	(71.4)
Unofficial	(16.7)	(Nil)	(28.6)
8. Others (Weighting, minor repairs, tyre puncture, etc.)			
Official	(30.0)	-	(89.6)
Unofficial	(70.0)	-	(10.4)

9.17 A major share of around 52 per cent to 66 percent of the total en-route expenses goes for fuel and oil. In case of RTO and police expenses, it was as high as around 30 percent for the Mumbai-Delhi route, of which, major expenses were unofficial. This was due to overloading of goods to the tune of around 4 tons in terms of GVW, though the actual overloading in terms of material carried was 3.5 MT. The RTO and police expenses during the Delhi-Calcutta trip were entirely unofficial. The other unofficial expenses include tips given to loading staff, security personnel of dockyards and donations extracted by locals on the way for festivals and fairs, especially in West Bengal and Orissa.

9.18 The per km en-route expenses worked out to Rs. 5.12 for Mumbai-Delhi, Rs. 4.39 for Delhi-Calcutta and Rs. 4.07 for Calcutta-Chennai routes. On the Mumbai-Delhi route, expenses on RTO/Police due to overloading were to the tune of Rs. 1.53 per km. The freight earned per km was Rs. 12.64, Rs. 11.40 and 7.50 for Mumbai-Delhi, Delhi-Calcutta and Calcutta-Chennai routes respectively. The higher freight rate of Mumbai-Delhi was mainly due to the 3.5 MT overloading, while that of Delhi-Calcutta was also comparatively high because it carried perishable commodities, that is, apples.

Other Observations

9.19 The AITD survey found that in every State, local drivers always tend to be aggressive. Haphazard overtaking, over speeding, cutting in immediately after overtaking, was normal. The same drivers, once they enter another State, become comparatively defensive. On two-lane carriage-ways, everybody tries to be in the center of the road and while passing oncoming vehicles, reluctantly switches to the left by just a few inches. Lathi-charge on the on-coming vehicle's front glass to get right of way was also witnessed in Gujarat.

9.20 It was also observed that there was no particular schedule followed by truck drivers. As mentioned earlier, in case of double driver operations, there was hardly any halt for rest. Similarly, there were no particular timings for meals/bath etc. As result, meals at odd hours were a common phenomenon. It was also observed that during the journey, the crews normally take minimum food so as to avoid drowsiness etc. It may be worth mentioning that the survey team witnessed drivers taking naps at the wheel, lasting 5 to 10 seconds, particularly towards the end of long driving spells, when stretched beyond 10 hours.

9.21 The topmost grievance of drivers is against harassment by police and RTOs. The highway police units are supposed to ensure smooth traffic flow on highways and take immediate action in case of accidents, traffic jams, road-robberies etc. But the AITD survey witnessed that the police and RTO play exactly the opposite role.

Delays: International Borders

9.22 Another survey by UN-ESCAP also highlighted the pervasive effect of delays in the free flow of goods from India across international borders, namely Nepal and Bangladesh. The delays at the borders may sometimes even be 7 days. As a result of this, the transporter suffers from additional waiting costs and movement of vehicle for the next trip. Usually, the cost burden at the border is estimated as US\$ 1.5-10 per ton, which is considerably higher than in most developed economies.

9.23 Such delays have an impact on prices of commodities and freight charges. Transporters also find high waiting time at the borders a major deterrent, because their vehicle is out of rotation from usual cycle of revenue generation. The paperwork is also quite complicated and enormous in cross-border movements by road.

9.24 The North East sector is supposed to be worst sector for transporting agencies because of various reasons, namely, difficult driving conditions and poor legal enforcement measures. At most places in the North East and Eastern sectors, various extremist organizations and mafias run an independent local government and extract movement fees from trucks. Thus, transporters have to shelve twice the amount for the safety of their truck and consignment, which is ultimately passed on to the consignee and consumer.

Table 6: Transport and Transit: Performance Indicators

	Time Delays (in days)			Costs (US \$/ton)		
	Transit time	Border Crossing	Transfer Time	Transit Costs	Border Crossing	Transfer
Calcutta-Petrapole-Benapole-Dhaka (Road)	1.5 - 2	0.5 - 2	1 - 2	64	2 – 3	7 - 8
Kathmandu-Biratnagar-Calcutta (Road)	5 - 7	1.5 - 2	1 - 2	10 - 40	1.5 – 3	7 - 8
Kathmandu-Birganj-Calcutta-Haldia (Multimode)	5 - 7	3 - 7	NA	20 - 40	7.5 – 10	7 - 8
Patna-Hill-J.Bridge-Dhaka-Chittagong (Road)	10 - 15	1 - 3	0.5 - 2	8 - 10	5 – 10	7 - 8
Guwahati-Shillong-Dawki-Tamabil-Chittagong (Road)	6 - 10	0.5 - 2	0.5 - 2	NA	NA	NA

Stage-IV: Unloading & Return Trip

9.25 It is evident from the AITD survey that loading and unloading time is almost identical in most cases. But the identification of freight on the return journey is a matter of much concern, because the efficient growth of intermediaries (brokers) has not taken place. Unhealthy competition among these agencies has rendered the trade unattractive for new entrants. Both brokers and booking agents have no written document. They function by word of mouth, which often results in their dealing only with known operators. Thus, small firms suffer from partially loaded trucks on their return journey. It is also interesting to note that while the only liability of the broker is to ensure payment of freight charges by booking agents to the truck owners, nearly 74 per cent of brokers have complained of delays in payment. Thus, the transport owner suffers on two accounts, loss of revenue on his return journey and delay in payment for the first leg of the trip.

Rewards & Costs

9.26 Finance is a major problem plaguing the transport sector. Banks provide direct finance to the SRTOs under the Priority Sector Lending Scheme. This scheme is applicable to only those operators who do not own more than 10 trucks. This scheme has certain benefits in terms of interest rates, which range between 14 and 15 per cent.

9.27 Under this scheme, the category of borrowers includes a variety of other players like operators of taxis, autos, buses, carts, cycle rickshaws, etc. But for truck operators, banks usually grant loans for the purchase of chassis and not for bodybuilding, resulting in truck owners cutting corners in building bodies for the truck. Though banks are asked to follow a flexible approach towards margin requirements, they usually insist on 20-25 per cent of the total cost as margin requirement. The repayment schedule is set for three-five years, through monthly/quarterly installments. The high rate of interest on loans for the road industry is an area of concern. Currently, around 90 per cent of commercial vehicles sold are on hire purchase/lease finance/loans. Hence, interest payment becomes a critical component of the operating cost while determining the operational feasibility of running the truck.

9.28 Working capital is a critical component. This is required to meet the day-to-day expense on diesel, salaries, wages, rent and maintenance of assets. Besides, it also includes other hidden costs that are levied because of regulatory and other impediments. Proper costing is a precondition for estimating the proper working capital requirements. But the existence of a lot of grey areas in terms of rents at different places makes the cost estimation a difficult proposition. The amount of working capital is also dependent on nature and size of the business.

9.29 There are no set formulae for determining the working capital needs of an enterprise. Road transport is a high risk and low reward proposition. It is a service industry, where efficiency and size are not closely related to economies of scale. The share of total freight movement via road is almost 65 per cent. A hypothetical estimate of working capital required during a month for operating a two-axle vehicle between Delhi-Mumbai (to and fro distance 2800 km) is given in the box. It is assumed that a truck operates 3 round trips in a month and the average fuel consumption is around 3.85 kms per litre. On an average, Rs. 50,000 is estimated as the working capital required for three round trips.

9.30 The charges are Rs. 12,000 per trip to Mumbai from Delhi for a fully loaded truck. Thus, the total earnings from three trips are Rs. 72,000, resulting in an income of Rs. 22,000 per month. As far as economics is concerned, this is fair business in terms of returns. But there is a significant un-recovered fixed cost, which includes interest, cost of office, waiting time, etc. Single interest payment on a truck varies between Rs.10,000 and 12,000 per month, assuming the cost of an LCV to be around Rs. 3.5 lakhs and that of HCV around Rs. 6.5 lakhs. Having made an investment of 6.5 lakhs, a truck owner also has to spend around 1.5 lakhs for bodybuilding and other accessories, thus amounting to a total investment of around Rs. 8 lakhs before the truck (HCV) can be used for transporting goods.

9.31 With an investment like this, the owner deserves an income of about Rs. 8000 per month. But to generate income, he has to also make allocations for working capital. Thus, the costs more than neutralize rewards. Rewards can only increase if the owner can make a greater number of trips or circumvent the regulatory regime. Besides, it is not always that a truck gets cargo for a round trip without

adequate tie-ups with brokering agencies or major transport agencies. These estimates of the working capital do not include monetary benefits distributed to various official agencies (other than the usual ones like RTO, Octroi, etc.) on the way for freer movement and also waiting and stoppage costs.

Sample Survey of En route Expenses (Mumbai-Delhi Route)		(Rs.)
Total en route expenses		8100.00
Distribution of expenses		
1.	Diesel and Oil	4199.85
2.	Crew expenses	600.21
3.	RTO and Police	2420.28
	of which	
	- Official	600.22
	- Unofficial	1820.06
4.	Octroi & other taxes, Check-post expenses	85.05
	Of which	
	- Official	25.00
	- Unofficial	60.05
5.	Toll fees	64.80
6.	Broker's Commission	45.36
7.	Loading/Unloading	179.82
	Of which	
	- Official	149.79
	- Unofficial	30.03
8.	Others (weighing, minor repairs, tyre puncture, etc. and also donation, dock entry)	99.63
	of which	
	- Official	29.89
	- Unofficial	69.74

Source: AITD Report of the Study on Trucking Operations in India

9.32 Logistically, a truck moving from Delhi towards Mumbai encounters the first check-post (sales tax) at the Haryana border. The sales tax check-post inspects the consignment and respective forms and receipts. At this check-post, the driver has to also declare whether any delivery is to be made within territorial boundaries of Haryana. If any delivery is to be made in Haryana, relevant entry papers and tax paid certificates are checked for the consignment. If the entire consignment is to be delivered at Mumbai, the driver will have to declare the route to be taken, as well as the exit point from Haryana (*Baheti*). Under this obligation, the vehicle is not allowed to change its route plan. It is a common experience that trucks do not adhere to declared route plans. For instance, due to chakka jam on the route, drivers take arterial roads to avoid jams. Once the truck is on the arterial road, the truck over-speeds to get back to the declared route as fast as possible. Otherwise, sudden check and deviation may lead to impounding of the vehicle and arrest of the driver.

9.33 The second check-post is octroi at the district level. Octroi check-posts are at all the district entry points. At all such points, the vehicle will be stopped for collection of octroi. Poor law and order situation has resulted in the emergence of illegal octroi check-posts under the umbrella of local mafia. This can lead to double taxation. In case the driver attempts to avoid such check-posts, there is always the threat of manhandling, looting and even stealing of the entire consignment midway. If a State has seven districts on the way, the vehicle will pay octroi at seven locations.

9.34 The third check-post is of the RTO to check the vehicle papers and requisite permits to enter the State. These check-posts are on district-basis and the vehicle is stopped usually at the point of entry in

the State. But since the RTO's jurisdiction is on district-basis, each RTO is interested to obtain his pound of flesh.

9.35 The fourth check-post is related to the Forest Department, which is empowered to check each and every vehicle under suspicion. This check-post is not so important for goods transport, but to avoid harassment, the vehicle needs to show papers as and when required. These check-posts are also at the district level.

9.36 The fifth check-post is the tollbooth for the use of bridges, flyovers, etc. Such tollbooths can range between 3-6 tollbooths in progressive States and 2-4 tollbooths in not so progressive States.

9.37 Apart from these, there can be sudden checks by different law enforcement agencies like District Supply Office, local police, etc. On its way to Mumbai, a truck has to pass Haryana, Rajasthan and Gujarat. In all three States, the vehicle will be stopped at the respective check-posts for inspection of papers and collection of taxes and other monetary benefits. It is suggested that the overall indirect cost can be two times the freight cost, depending on the destination. In terms of time delays, a passenger vehicle that is free from such checkpoints takes around 48-60 hours to reach Mumbai. But a goods vehicle, which is answerable to all the checkpoints, take almost 6-7 days. In other words, the overall increase in travelling time is around 3-4 days. Such delays are rarely translated into costs. But roughly, one can say that the India incurs losses of almost 3 days of GDP for every week through inadequate transportation.

9.38 Transporters confided that profits are more in transporting goods without adequate papers. There are scores of coloured receipts available with transporters, which are well known in government circles. At check-posts, the number of coloured receipts decides the payment (hearsay information is Rs.25 per coloured receipt). Once the truck driver makes the payment for the coloured receipts, there is no stopping of the vehicle on the way. In cases of surprise checks also, the plain paper receipt is shown to inspectors for free passage. In other words, there is a lot of understanding between the government staff manning the borders. Usually, time taken to deliver unauthorized goods is 3-4 days, as against 5-6 days for a regular Delhi-Mumbai trip. The reason cited by most truck drivers is that they are aware of the timings when the checks at border or various city limits are minimal, so they start their journey accordingly. Major coverage of the route is carried out in the night and usually rest is in the morning hours. Transporting unauthorized goods is a risky proposition, but a profitable one, because the transporter charges more than the prevalent rates (approximately twice the normal charges). At the same time, drivers feel safe to drive such consignments, because the rates are already fixed and therefore they do not experience harassment and other complications. All check-posts allow smooth passage to such vehicles. In some cases, even the law enforcement officials take extra precautions with such vehicles by way of information about troubled areas. Besides, such vehicles are also allowed unofficially to change their route plan depending on the circumstances.

9.39 On the basis of personal interviews with transporters, if all the additional costs are eliminated, the delay can be reduced by approximately 3 days and transportation costs halved.

Chapter 10: Bibliography

1. AITD (2000) "Statistical Profile of Indian Trucking", *The Asian Journal*, Volume 7, Number 2, June 2000.
2. AITD (2000) "Technology Change: Slow and Unsteady", AITD, *The Asian Journal*, June 2000, Volume 7, Number 2.
3. AITD (1994) "Technical Study on Energy Conservation of Motorised Road Vehicles in India".
4. Aggarwal, K. Pawan (1984) "*Income and Price Elasticity of Central and State Taxes*".
5. Bagchi, Amaresh (1995) "*Tax Harmonisations in Federations: A Survey of Theory and Practice*".
6. Bagchi, Amaresh (1995a) "VAT and Taxes: Misconceived Fears", *Economic Times*, February 1995.
7. Bakshi, P.M. (2001), "Freedom of Trade, Commerce and Intercourse throughout India (Articles 301-307): Draft Consultation Paper No. 17B", *National Commission for Review of Working of the Constitution*.

8. Bhattacharya, A.K. (2000) "The Indian Trucker and His Travails", *The Asian Journal*, Volume 7, Number 2, June 2000.
9. Chelliah, R.J. (1991) "*Interim Report of Transport Review Committee*".
10. CII (1999) "Value Added Tax: A Note" Confederation of Indian Industry.
11. CII (2000), "A Case for Substitution of Octroi", Confederation of Indian Industry
12. FICCI (1998), Discussion Paper on "The First Ninety Days of the New Government: Policy Agenda for Distributive Trade", Federation of Indian Chambers of Commerce & Industry.
13. FICCI (1999), Discussion Paper on "All India Trade Conference", Federation of Indian Chambers of Commerce & Industry.
14. FICCI (2000), Background Paper for Conference on "Developing India's Capability for Organised Retailing", Federation of Indian Chambers of Commerce and Industry.
15. FICCI (2001), Background Paper on "Reforms in Highways Sector: Achievements and Future Milestones", Federation of Indian Chambers of Commerce & Industry.
16. Gupta, D.P. (2000) "Short Term Benefits: Long Term Costs", *The Asian Journal*, Volume 7, Number 2, June 2000.
17. Malik, Shazia (2000) "Phenomenal Growth: Skewed Structure", *The Asian Journal*, Volume 7, Number 2, June 2000.
18. Mehta, Shekhar and Manay, R. Jeeja (1992) "Inter-State Transactions: Undercutting of Tax Rates", *Financial Express*, 1992
19. Moon, R. John (2000) "Inter-country Facilitation: Productivity Optimisation", *The Asian Journal*, Volume 7, Number 2, June 2000.
20. MOST (1987) "Vehicle Fleet Modernisation and Road User Charges Study", Ministry of Surface Transport, Government of India.
21. MOST (1998) "Motor Transport Statistics of India (1997- 98)", Transport Research Wing, Ministry of Surface Transport, Government of India.
22. MOST (1999) "Trucking Operations in India, Report of Steering Committee", Asian Institute of Transport Development, Ministry of Surface Transport, Government of India.
23. Nath, Shyam, Bagchi, Amaresh and Mehta, Shekhar (1991), "*Taxes on the Entry of Goods into a Local Area: An Assessment*".
24. Purohit, Mahesh (1992) "*Structure of Commodity Taxes in India: Some Policy Prescriptions for Reforms*".
25. Purohit, Mahesh (1993) "*Adoption of VAT in India: Problem and Prospects*".
26. Puri, B.N (2000) "Regulatory Regime: Negative Externalities", *The Asian Journal*, Volume 7, Number 2, June 2000.
27. Rao, N. Govind and Sen, K. Tapas (1996) "*Fiscal federalism in India: Theory and Practice*".
28. Saksena, J.M. (2000) "*Motor Transport at Cross Roads?*".
29. Saxena, J.M. (2000) "*Transporter's Perspective*".
30. Sen, K. Tapas and Bohra, O.P. (1995) "*Passenger and Goods Tax for Delhi: Pros and Cons*", National Institute of Public Finance and Policy.
31. Sen, K. Tapas (1998) "*Tax Administration in India: Motor Vehicle Tax, National Institute of Public Finance and Policy*".
32. Singh, M.P. (1999) "*Barriers to Inter-State Trade and Commerce*".
33. Srinivasa-Raghavan, T.C.A. (2000) "Trucking Finance: High Risk, Low Reward", *The Asian Journal*, Volume 7, Number 2, June 2000.
34. Thukral, K.L. (2000) "Burden of Taxes: Need for Reform", *The Asian Journal*, Volume 7, Number 2, June 2000.
35. World Bank (1995) "India Transport Sector, Long Term Issues", World Bank.

Committee Reports & Other Misc. Publications

36. All India Motor Transport Congress Publications
37. Bhanot Committee Report on Technology Upgradation, 1998
38. Census Publications, Register General of India
39. Central Motor Vehicle Act / Rules
40. China- Strategies for Road Freight Development, document of the World Bank, 1995
41. Committee On Transport Policy and Co-ordination, 1966

42. Committee on Rationalisation of MV Taxation, 1985
43. Five Year and Annual Plan Documents.
44. Freight Movement, Industrial Herald, 2001.
45. National Transport Policy Committee, 1980
46. Planning Group on Road Transport Draft Report 1998.
47. Perspective Planning for Transport Development (Steering Committee Report), 1988.
48. Policy Issues in Road Transport in India - Document of the World Bank, 1989.
49. Reform of Domestic Trade Taxes in India: Issues and Options, 1994.
50. Report on Reforms in Insurance Sector, Ministry of Finance, 1994.
51. Report on Revision of Motor Insurance Tariff, ORG, 1996.
52. Report of the Working Group on Road Transport for 9th Five Year Plan, 1997-2002.
53. Road Goods Transport Industry in India - a study by CIRT (Pune), 1993.
54. Road Transport Re-Organisation Committee (Masani Committee), 1959.
55. Road Transport Taxation Enquiry Committee (Keskar Committee), 1967.
56. Study on Decline in Railways Share in Total Land Traffic, RITES, 1996.
57. Study Group on Viable Units, 1967.
58. Study Group on Road Transport Finance, 1968.
59. Transport Managers' / Operators' Handbook, 1995
60. Year Book-1998, Indian Railways.

Annexure 1: Multiplicity of Requirements in MTW-related Official Forms

S. No	Particulars	Form Numbers										
		Issue of Driving License	Licensing for establishment of Motor Driving School	Registration of Motor Vehicle	Transfer of ownership of Motor Vehicle	Agreement of Hire/Purchase/Lease/Hypothecation	Authorizing Testing Stations	Registration of Motor Vehicle on behalf of Diploma/Consular Officer	Grant of License in respect of Tourist Vehicle	Certificate of Insurance	Accident information report	Approval of foreign insurer
1	2	3	4	5	6	7	8	9	10	11	12	13
1	Name of the Applicant	F1, F1A, F2, F3, F4, F5, F6, F7, F8, F9, F1	F14, F15, F16, F18	F20, F27, F28, F41	F29, F30, F33		F40	F42, F44	F45, F46, F48			

S. No	Particulars	Form Numbers										
		0										
2	Son/Wife/Daughter of	F1, F2, F3, F4, F5, F7, F9, F10	F14, F16, F18	F20, F21, F23, F24, F26, F27, F28	F29, F30, F32, F33		F40	F42, F43	F45, F46, F48			
3	Permanent Address	F1, F2, F3, F4, F5, F6, F7, F9, F10	F14, F16, F17, F18	F20, F21, F23, F24, F25, F26, F28, F41	F29, F30, F32, F33		F40	F42, F43	F45, F46, F48			
4	Temporary Address	F1, F2, F3, F4, F5, F6, F7, F9, F10	F14, F16, F17, F18	F20, F21, F23, F24, F25, F28	F30, F32		F40					
5	Official Address (if any)	F1, F2, F3, F4, F5, F6, F7, F9, F10	F14, F16, F17, F18	F20, F21, F23, F24, F25, F28	F30, F32, F33		F40	F42				
6	Date of birth	F1, F2, F3, F4, F6, F10	F14									
7	Age on date of application	F1		F20			F40	F42				

S. No	Particulars	Form Numbers										
	of parent/guardian (in the case of applicant being a minor)											
19	Name and Address of Driving School with License no. & date of validity period	F2, F4, F5	F11, F12, F13, F15									
20	Payment of the Fee	F2, F4, F8, F9	F12, F16, F17, F18	F20, F25	F34	F35, F36				F46		
21	Exempted from the Medical Test under Rule 6 of Central Motor Vehicle Rules, 1989	F2, F3, F4										
22	Exempted from the preliminary test under Rule 11(2) of Central Motor Vehicle Rules, 1989	F2, F3, F4										
23	Name and Address	F2										

S. No	Particulars	Form Numbers										
	staff engaged for imparting instructions											
42	Make and model of engine to be used for training purposes		F12									
43	Details of the registration marks of the vehicles used for imparting driving instructions		F12									
44	Hours spent in actual training school		F15									
45	Whether the applicant is a manufacturer or dealer in motor vehicle, approved repairer of vehicles, engaged in building bodies of		F16	F23								

S. No	Particulars	Form Numbers											
	vehicles engaged in business of higher purchase, lease, Hypothecation												
46	Number of certificates required		F16										
47	Serial number of trade certificate		F17										
48	Trade number assigned in respect of the certificate		F17, F18, 19										
49	Date of expiry of the certificate		F17, F18										
50	Name and address of the dealer and manufacturer from whom the vehicle was purchased			F20									
51	Vehicle is ex-army vehicle,			F20, F24, F41									

S. No	Particulars	Form Numbers										
	imported vehicle, locally manufactured vehicle											
52	The Motor Vehicle is (a) New vehicle (b) Ex-army vehicle (c) Imported vehicle			F20, F23, F24, F25, F41	F30				F42, F43		F51	
53	Type of body			F20, F24, F25					F42, F43			
54	Type of vehicle			F20, F21, F22, F23, F24, F27, F28	F29, F30, F32	F36	F40	F42, F43	F45, F48	F51	F54	
55	Maker's name			F20, F21, F23, F24, F25, F41	F32	F36			F45, F48	F53		
56	Month and year of manufacture			F20, F21, F23, F24, F25								
57	Number of cylinders			F20, F21, F23, F24, F25, F41				F42, F43				
58	Horse powers			F20, F21,				F42		F53		

S. No	Particulars	Form Numbers														
	registration number of the vehicle															
67	Colour or colours of body wings and front end			F20, F21, F24						F42, F43		F52				
68	Number description and size of tyres			F20, F21, F24						F43						
69	Front axle			F20, F21, F23, F24								F48				
70	Rear axle			F20, F21, F23, F24								F48				
71	Gross vehicle weight			F20, F21, F23, F24, F41								F46, F47				
72	Maximum axle weight (a) Front axle (b) Rear axle			F20, F21, F23, F24						F42, F43						
73	Overall length			F20, F23, F24						F43						
74	Overall height			F20, F23, F24												
75	Overall width			F20, F23, F24												
76	Overhang			F20, F23, F24												

S. No		Particulars	Form Numbers										
1 2 4	Proof of land owned by or held by the applicant							F40					
1 2 5	Whether garage is equipped with (i) Water supply (ii) Electricity (iii) Toilet (iv) Rest room							F40					
1 2 6	Source of finance							F40					
1 2 7	Designation of Diplomatic officer/consular officer								F42, F43, F44				
1 2 8	Name and address of the person from whom the vehicle was purchased								F42				
1 2 9	Country from which imported								F42				
1 3 0	Year of manufacture								F42, F43				

S. No	Particulars	Form Numbers											
131	Register number of motor vehicle belonging to diplomatic or consular officer								F43				
132	Registering place of vehicle								F44				
133	Period of stay of the vehicle in the state								F44				
134	Status of the applicant, whether individual company or partnership firm or cooperative society etc.									F45, F48			
135	If applicant holds heavy passenger motor vehicle license									F45, F48			
136	Details of other permits, if any, held in respect of particular vehicle									F45			

S. No	Particulars	Form Numbers															
137	Details of total number of tourist permits held by the applicant												F4 5, F4 8				
138	Registration mark and year of manufacture												F4 6, F4 7	F51, F52			
139	Permit number, the authority which has issued the permit and date of issue and date of expiry of the permit												F4 6, F4 7				
140	Period for which authorization is sought for												F4 6				
141	List of states for authorization granted												F4 6				
142	Name and address of permit holder												F4 7, F5 0				

S. No		Particulars											Form Numbers								
1	4	3	Name of the permit issuing authority															F47			
1	4	4	Date of expiry of the permit															F47			
1	4	5	Number of bill of lading															F50			
1	4	6	Name of the consignor															F50			
1	4	7	Name of the consignee															F50			
1	4	8	Point of origin															F50			
1	4	9	Point of destination															F50			
1	5	0	Number of articles															F50			
1	5	1	Weight in kg.															F50			
1	5	2	Freight charges paid															F50			
1	5	3	Freight charges to pay															F50			
1	5	4	Total charges															F50			
1	5	5	Truck number															F50			
1	5	6	Name and address of the insured																F51, F52		
1	5	7	Persons or class of																F51, F52		

S. No		Particulars	Form Numbers										
		persons entitled to drive											
158		Permit is for stage-carriage / contract carriage -private service vehicle									F51, F52		
159		Name of the government to which property belongs									F52		
160		Name of the local authority /state transport undertaking									F52		
161		Exemption certificate for insurance by the order number with date									F53		
162		Validity period of exemption certificate for insurance									F53		
163		Name of the police station									F54		
166		CR No/Traffi											F55

S. No	Particulars	Form Numbers													
	al office of the said insurance company														
171	Route permit particulars												F54		
172	Action taken, if any, and the result thereof												F54		
173	Name of the foreign insurer													F55	, F56, F57
174	Domicile at													F55	, F56, F57
175	Expiry date of the guarantor													F56	
176	Certificate number of foreign insurers													F57	
177															
178	Name and address of guarantor													F57	
179	Name and address of visitor													F57	
1	Date of													F57	

S. No	Particulars	Form Numbers												
80	comment of the policy													
181	Passenger or classes of persons entitled to drive in India													F57
182	Any limitations as to use of Motor Vehicle in India													F57
183	Particulars of any other vehicle(s) which the foreign visitor is entitled to drive in India and any limitation as to use of such vehicle in India													F57
184	The period of validity of endorsement													F58

Source: AITD (1998)

Annexure 2: Smart Form for Trucks

1. Status of the Transporter: Individual/Company/Partnership firm/Co-Operative Society
2. Name of the Transporter:-

3. Address:-
4. Type of Motor Vehicle:-
5. Vehicle Registration Number:-
6. Registering Authority:-
7. Vehicle Insurance Policy Number/valid up to:-
8. Driver/s in Vehicle:-

Name	Driving License No.	Place of Issue/Valid till	Badge Number

9. Period up to which road tax has been paid:-
10. Certificate of Pollution Control Number/Valid up to:-
11. Certificate of Road Worthiness/Valid up to:-
12. Details of State Permit held by the applicant:-

State/Union Territory	Valid up to	Issuing Authority

13. Details of Consignment-

Consignor	Consignee	Receipt Number	Point of Origin	Destination	Value (Rs.)

14. Total freight charges paid:-
15. Total value of goods transported:-
16. Goods Insured:- Yes/No
17. If Yes: Insuring Agent/Policy No./Validity:-

^[1] FICCI (2001)

^[2] This section draws on *Draft Consultation Paper No. 17B* by P.M. Bakshi, submission made to the National Commission for Review of Working of the Constitution, *Freedom of Trade, Commerce & Intercourse throughout India* (2001).

^[3] Treaty of Rome (1957)

^[4] As provided by Article 304(b).

^[5] *Prag Ice & Oil Mills Vs. Union of India*, AIR 1978 SC 1296.

^[6] Hanks Australian Constitutional Law (1985).

^[7] (a) *Atiabari Tea Co. Vs State of Assam*, AIR 1961 SC 232 (b) *Automobile Transport Ltd. Vs State of Rajasthan*, AIR 1962 SC 1406, 1423 and (c) *State of Madras Vs N.K. Nataraja Mudaliar*, AIR 1969 SC 147, 154, 155.

^[8] (a) *Vrajlal Vs. State of Madhya Pradesh*, AIR 1970 SC129, (b) *Oudh Sugar Mills Vs Union of India*, AIR 1970 SC 100.

^[9] *Rai Ramakrishna Vs State of Bihar*, AIR 1963 SC 1662, 1675, 1676

^[10] AITD (1999)

^[11] Malik Shazia (2000)

^[12] Various organizations have conducted field surveys on road transport in the last five years, the latest comprehensive survey on motor transport was conducted by the Asian Institute of Transport Development in 1998. This paper uses the AITD survey as a benchmark.

^[13] Puri, B.N (2000)

^[14] Literacy in a strict sense means reading and writing and there can be a dispute about whether the literacy definition is adequate.

^[15] Bhattacharya, A.K (2000)

^[16] Gupta, D.P (2000)

^[17] Srinivasa-Raghavan, T.C.A (2000)

^[18] Singh M. P. (1998)

^[19] Bhattacharya A.K. (2000)

^[20] Technology Change: Slow and Unsteady, AITD, *The Asian Journal*, June 2000, Volume 7, Number 2, (Indian Trucking).

^[21] *Trucking Operations in India, Report of Steering Committee*, Asian Institute of Transport Development, 1999, Ministry of Surface Transport, Government of India.

^[22] This section draws on observations from *Trucking Operations in India, Report of the Steering Committee*, Asian Institute of Transport Development, 1999, Ministry of Surface Transport, Government of India.

^[23] *Technical Study on Energy Conservation of Motorised Road Vehicles in India*, AITD, 1994

^[24] Section 56 of the MV Act read with CMVR 63(3)(e) provides that an authorized testing station for vehicle fitness work is expected to maintain in good condition the equipment and apparatus for undertaking tests pertaining to exhaust gases, smoke emissions, brake systems, head lights, wheel alignments, compressors, speedometers and other like components.

^[25] This is an illustrative list of environment-related laws that have links with truck movements. Other laws like the Water (Prevention and Control of Pollution) Act of 1974 and its rules or provisions in the Indian Penal Code are not mentioned because they have no direct links with truck movements.

^[26] Background Paper for Conference on "Developing India's Capability for Organised Retailing", Federation of Indian Chambers of Commerce and Industry, 2001

^[27] FICCI (1998) "Discussion Paper on the First Ninety Days of the New Government Policy Agenda for Distributive Trade".

^[28] Thukral, K.L.(2000)

^[29] Aggarwal, K. *et al* (1984), Bagchi A. (1995, 1995a)

^[30] This section draws heavily from AITD (1998)

^[31] Puri, B.N (2000)

^[32] Sen, K. *et al* (1995)

^[33] The Partha Sarathy Shome Committee has recommended eventual abolition of CST, but the implementation and phase-out plan is yet uncertain.

^[34] About 40 service sectors are now taxed through a turnover tax system and the Govinda Rao Committee has made recommendations on other service sectors to be taxed. Ideally, these should be taxed through a system that can be VAT-ed out.

^[35] These cases include agricultural income tax appeals, but the bulk of cases are related to sales tax.