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Emerging Audits

SECTION 'A' — AUDIT OF REGULATORY BODIES

Independent regulators are a creation of post liberalization era of 1990s. When the Government opened up several key infrastructure sectors for private sector, in keeping with the prevalent philosophy of separation of policy, operations and regulations, it set up independent regulatory authorities for telecom, power, ports, insurance sectors etc. Regulation of private infrastructure would rank as a relatively new phenomenon. It all started with Great Britain under Margaret Thatcher in the 1980s, when Britain went on privatizing its public sector entities in telephones, electricity, gas, water and railways. The expectation was that after privatization, these entities would improve quality of service and productivity. The British model was copied quite fast by a large number of countries including Latin America and Europe as well as South East Asia. India followed this after 1991 reforms policy of Narasimha Rao–Manmohan Singh. The first set of reforms were aimed at dismantling Government monopoly in certain vital sectors like telecom, power, ports, insurance, etc. The decade of 1990s therefore saw private players entering these sectors. This apparently meant establishing independent regulatory mechanism for regulating the conduct of operations in these sectors. Resultantly, a number of regulatory bodies came up during this period. These included Telecom Regulatory Authority of India (TRAI) in 1997 to regulate the telecom sector, the Insurance Regulatory and Development Authority (IRDA) in 1999 to regulate the insurance sector, the Central Electricity Regulatory Commission (CERC) in 1998 to regulate Central Electricity Sector (at the State Level, State Electricity Regulatory Commissions were set up). The Securities and Exchange

Board of India (SEBI) had been functioning as a regulator in Financial Sector since 1992. It is likely that there will be more regulatory bodies coming up in other sectors too.

The C&AG in a reshuffle of charges relating to audit of the above Regulatory Bodies, has assigned the function of auditing these to the three central audit offices viz. DGACR for SEBI and IRDA; PDAESM for audit of CERC, TAMP; and DGAP&T for audit of TRAI. The SERCs are audited by respective Accountants General of the State concerned.

ACCOUNTABILITY OF REGULATORY BODIES

The public accountability of regulatory bodies is a vexatious issue. Often, in India, regulators have taken the stand that they can be self regulators while a number of knowledgeable persons have held a view that there should be some accountability of regulators to some authority—apparently, such authority can be Parliament only, being the custodian of the public will. The debate on accountability of Regulatory Bodies naturally leads to the instrument of securing this accountability. The Planning Commission has recently highlighted this issue in a discussion paper[1] and has suggested the creation of a separate Department of Regulatory Affairs within the Ministry of Personnel and Administrative Reforms to focus on regulatory reform and governance. In India, the C&AG is the prescribed authority for the audit of these regulatory bodies as per the laws that created these authorities. The interpretation of this audit by C&AG was, as in the case of other auditable entities, that the nature, scope and extent of the audit will be the sole discretion of the C&AG and the audits would be carried out accordingly. The Planning Commission in their paper cited above has observed that 'overall functioning of the regulator should be subjected to scrutiny by the Parliament'. It goes on to say that the capacity of the legislatures to scrutinize the functioning of regulators would be enhanced by the information and analysis presented in an Audit Report. But surprisingly it also says in that context that 'unlike the Audit Reports of Ministries and Departments, the audit of regulatory bodies should be limited to expenditure control and not policy review of regulatory decisions'.

The question is how the capacity of the legislatures to scrutinize the functioning of regulators would be enhanced by Audit Reports, if these are confined to merely 'looking into expenditure control'? To that extent the assertion of the Discussion Paper regarding the utility of Audit Report on regulators to Parliament seems somewhat

exaggerated, for unless auditors go into other substantive issues of regulation, audit role as an aid to legislature, would be severely handicapped. The initial audits, of course, focused mostly on the expenditure aspects and there was not much by way of audit comments regarding 'the core functions' of the regulators. This was more an outcome of the competency gap in the Audit staff since an understanding of the regulatory framework, its functions and relationship with the activity it was regulating and role of the Audit in this complex situation were all evolving issues. However, the Government in January 2000 amended the TRAI Act 1997, by inserting an 'explanation' under section 23. The purport of this was that the decisions taken by TRAI in the discharge of its functions under clause B (subsection 1 and subsection 2 of section 11 in addition to section 13) of the TRAI Act were excluded from the Audit scope of the C&AG. This meant that audit could comment only on the accounts *per se* and establishment matters, while all other functions of TRAI were kept outside the purview of C&AG audit.

When this development came to the notice of the then C&AG V.K. Shunglu, he immediately took up the matter with the then Prime Minister A.B. Vajpayee in January 2000 where he pointed out that while adjudication of disputes could be a quasi judicial function, the function of setting tariff was an executive function and this function, howsoever worded, remained the same as what the Government used to do earlier. He contended, therefore, that it would not be proper to allow the TRAI to discharge this function without accountability to Parliament and excluding it from the ambit of C&AG's Audit was not correct. Similar pleadings were made to the Government by Shri N.D. Tiwari when he was the Chairman, Public Accounts Committee and wrote to Prime Minister in January 2000. Nothing, however, came of these communications. When the new C&AG V.N. Kaul joined the office (March 2002), one of his initial tasks was to take up this issue with the concerned authorities. He took up the matter with Arun Shourie the then Minister of Communication in May 2003; subsequently, he again took up the matter with the Minister of Communication Dayanidhi Maran through his D.O. letter of June 2004, a copy of which was also sent to the Cabinet Secretary. During discussions, both Arun Shourie and Dayanidhi Maran sounded very appreciative of C&AG's view point, however, apparently they could not do much. Subsequently, C&AG also addressed in August 2004 the Chairman Telecom Commission and Secretary, Department of Telecommunication. Eventually, C&AG wrote to the Principal Secretary to the Prime Minister P.M.

Nair in August 2004 urging that this matter should be considered carefully by the Prime Minister and resolved early so that 'a unique anomaly in the Audit mandate of the C&AG is remedied and other regulators do not take a cue from this act and seek similar exclusion from public audit scrutiny'. C&AG's apprehension that other regulators will take 'cue' from TRAI case proved correct as can be seen from what is stated in this Chapter.

PERFORMANCE AUDIT GUIDELINES ON REGULATORY BODIES

While the amended TRAI Act remains in force, C&AG 'as an interim measure, keeping the existing provisions of law in mind'[2], desired a new set of Performance Audit Guidelines of Regulatory Bodies. A Committee of three Senior Officers[3] was constituted to prepare draft guidelines including defining scope of audit for Regulatory Bodies. The draft guidelines were submitted to C&AG for approval in September 2003. Before his formal approval to these guidelines, the C&AG wanted the draft guidelines to be sent to Ministry of Finance for their information and comments if any on behalf of the Government of India. Ministry of Finance, however, did not send any comment on the draft guidelines. Slightly revised version of guidelines was put up to C&AG in January 2004 for approval. C&AG wanted that revised guidelines should cover two more points. Firstly, a section on 'SAI skills' corresponding to section I of INTOSAI guidelines should be added. Secondly, these guidelines be in line with the INTOSAI guidelines and should apply only to performance audits and should not be used for transaction audits. While approving the guidelines, C&AG also cautioned that transaction audit should not venture into issues concerning regulation and for that purpose he wanted the draft guidelines to clearly reflect this position. When C&AG formally approved the Guidelines on performance audit of regulatory bodies, he desired that the guidelines be sent to the concerned regulatory authorities also. The above developments reflect C&AG's policy of transparency in audit practices and systems.

While enclosing these guidelines to the Secretary, Department of Telecommunications Nripendra Misra, C&AG in his D.O. of August 2004 requested him that these be communicated to regulators in the Ministry so that 'they are aware that these have been framed to avoid any confusion or doubt in the minds of both the auditors and the auditees about the Audit mandate'. Earlier, a copy of the

new guidelines on audit of regulatory bodies was sent to Pradeep Baijal who was then Chairman of the TRAI and he welcomed the guidelines as 'very timely and extremely well prepared'. He also suggested that before the Audit Department took up Performance Audit of TRAI, there was a need for auditors to have training and interactions with institutions like ITU, World Bank and some old and established regulators like FCC and OFCOM. He even offered his assistance in facilitating such training.

While in the case of TRAI, the Act itself has barred C&AG from auditing the regulatory functions, in the case of CERC and SERC of various States, strong reservations have come from CERC/ SERCs of some States, about C&AG's powers to audit the regulatory functions of these bodies. Some of the regulators—at least 3–4 cases were on record—questioned C&AG's powers to carry out the performance audit of SERC.

The CERC held that 'as there is a legal remedy available in the Act for review/ appeal against the orders of the Commission, it will not be possible to subject these orders to the scrutiny of audit…, it may be difficult to allow audit of the orders passed by the CERC…'.

The Rajasthan Electricity Regulatory Commission said that the guidelines should confine to audit of accounts only.

The Tamil Nadu Electricity Regulatory Commission was of the opinion that 'Performance Audit of Electricity Regulatory Commission is not envisaged in the Electricity Act 2003'.

The concerned Director in the Headquarters sought in August, 2004 the opinion of C&AG's in-house legal expert [Director (Legal)] —on these contentions 'so that the matter could be suitably taken up'. His opinion was that 'audit of accounts of Electricity Regulatory Commission and Audit Report thereon would include performance audit of these Commissions. It is, however, presumed that orders passed by the Commission in exercise of quasi-judicial functions, as its legality and justiceability, would not be within audit scope'.

Uttar Pradesh SERC, provoked by the insistence of Accountant General, Uttar Pradesh to audit the decisions of the Commission wrote back, after obtaining legal opinion that 'C&AG had no authority to comment upon the orders passed by the Commission … the C&AG's audit is to be restricted to the audit of the receipts and expenditure of the Commission'.

C&AG's justification for audit of regulatory decisions like tariff fixing has been that C&AG has the same rights, privileges and authority for the audit of Electricity Regulatory Commissions, as is available in the audit of government accounts where he has

comprehensive powers to audit all aspects of the finances. Further, while fixing tariff, the 'Commission is only discharging executive functions and not adjudicating functions and that the Commission is required to follow the financial principles as required under Sections 46, 57 and 57A of Electricity Supply Act 1948 and it is within the scope of audit to ensure that these principles are followed'.

While, as already expounded above, initially the C&AG was very strongly in favour of audit taking up issues even if these were the subject matter of regulatory decision there was a change in the stand when in November 2004, Headquarters addressed all Accountants General/ Principal Directors of Audit on the subject 'Audit of Regulatory Bodies' giving the following decisions:

'The 'Guidelines on Performance Audit of Regulatory Bodies' are general and executive in nature and cannot supplant the legislations by which such regulatory bodies have been set up. These are only supplement to statutory provisions of the TRAI Act'.

C&AG, therefore, directed that while taking up the audit of regulatory bodies, it should be kept in mind that the audit should be within the sphere of the provisions made in the relevant Act regulating such bodies in order to avoid any confrontation between the Act and the guidelines.

In yet another review of the matter, on the basis of the references received from different SERCs challenging the authority of C&AG for auditing matters other than the annual accounts, the C&AG decided that audit of accounts of CERC and Audit Report thereon would include performance audit of CERC. However, directions to this effect issued in December 2004 also contained a proviso that 'orders passed by the Commission in exercise of quasi-judicial functions (as its legality and justiceability) would not be within the scope of audit'. It was also made clear that the above instructions were equally applicable to other regulatory bodies. In June 2005, ADAI M.S. Shekhawat, addressed demi officially A.K. Basu, Chairman, CERC pointing out that after consultations with the Ministry of Law who had opined that 'while auditing regulations under the Electricity Act 2003, the auditor can comment on their economy, efficiency and effectiveness in the audit report to be placed before Parliament/ State Legislature', it was expected that Electricity Regulatory Commission would extend full cooperation to audit in performance of its statutory obligations.

What has been the Audit experience so far in Audit of Regulation? The experience has been very mixed. C&AG's initial audit of TRAI, before the amended Act of 2000 produced some

startling findings on misuse of powers by top executives of TRAI in the matter of their entitlements and claims. These findings, as contained, in C&AG's Audit Reports on the accounts of TRAI for the years 1998–99 and 1999–2000 reflect poorly on personal ethics. But C&AG did not go beyond the establishment audit, because by the time his auditors were ready to go beyond to performance related aspects, the Act had been amended.

In the case of SEBI, Audit initially confined itself to the certification of accounts. In 1996, the scope of Audit was broadened to include an examination of SEBI's inspection reports on UTI, Stock Exchanges and Brokers, etc. When Audit asked for relevant records on these, it faced tough resistance from SEBI. A kind of stalemate existed for sometime. And, finally in a meeting between the then C&AG, C.G. Somiah and SEBI Chairman D.R. Mehta an agreement was reached. Broadly, the agreement between SEBI and Audit was that while Audit had a full right to ask for production of all records needed by it, it would exercise this right on a selective basis and requisition them at an appropriate level. This was necessary to keep the confidentiality of the information. This was a very genuine stand by SEBI, because often information of finance is sensitive; but C&AG is well versed with such situations since he deals with audit of similar nature like of defence, of income tax, reward to informers, etc. which are also very sensitive matters.

It would be interesting to see the audit ingenuity when it brings out a Report on Performance Audit of regulatory bodies but without looking into the orders passed by these bodies in exercise of their quasi-judicial functions. Interestingly, a look at some of the value for money Audit Reports of NAO UK on the regulatory authorities indicates that the audit can, without touching upon regulatory decisions, still come out with useful and material findings that have bearing on various aspects of the functioning of the regulator to cover issues of regulatory processes, procedures including, as seen from these reports, such issues as:

- Allocation of resources to meet the regulator's objectives
- Economy and efficiency of operations of the regulator
- Achievement of targets by the regulated entities
- Relationships with other regulators, and international co-operation
- Feedback from business leaders and consumers about the regulator's role
- Lack of adequate information with the regulator

- ❖ Policy approach followed by the regulator (e.g. setting water leakage targets)

Audit discussion on the issues mentioned above, did not cover the regulatory decisions *per se*; these issues relate to the systems and procedures followed, quality of data or information flowing to regulators. The issue of economy and efficiency of the operations will reflect the cost of the decisions and timeliness of the decisions —this may create some conflict but objectively these fall outside the quasi-judicial aspects of regulator on regulatory functions.

It would thus appear that a good Performance Audit Report can still be prepared by audit without getting into the regulatory decisions provided of course the regularly bodies respect C&AG's right to this extent. One would have to wait for that because for the moment the stress in audit of regulatory bodies is restricted to account certification and establishment audit.

C&AG Kaul himself is of the view that in the audit of regulation, there is a necessity for audit to proceed with great caution; also, as stated already, there is a need to bridge the competency gap that exists today in the audit of regulatory bodies. He is, however, very clear that the guidelines on Performance Audit of Regulatory Bodies are internationally bench marked and have been proclaimed transparently to all the stake holders and, therefore, for the auditor these guidelines of C&AG are to be the basis for the audit.

To the question where the Audit Department stands today vis-à-vis audit of these independent regulatory bodies, the answer, frankly, is that this branch of audit is still evolving and is in a nebulous state as of today. There have been, so far, no performance audit reports on any of the regulators. But good points have emerged in the audit of accounts and establishment issues as already brought out above. The limitations of legal mandate apart, the most important and pressing issue at the moment for Audit Department must be to train and equip a team of officers with knowledge of regulatory functions, the environment within which it works, the complexities of balancing conflicting claims of the various stakeholders by regulators and finally the skill to wade through the regulatory orders without infringing on the regulator's decisions on regulatory aspects and yet produce a good performance audit report. Can it be done? Yes, of course, it can be, but it will need knowledge, skill and great articulation in Audit and presentation of his Report.

FILLING THE COMPETENCY GAPS

The AsG Conference of 2001 had identified 'Competency Gap' as a key issue in the audit of regulatory bodies. Subsequently, a Group constituted to deal with the issue gave a report titled 'Audit of Regulatory Bodies—Bridging the Competence Gap' in October 2001. The Report made an attempt to identify the competency gaps regulator wise and it also made a kind of Action Plan for bridging the competency gaps. In May 2003, C&AG desired that Action Plan for skill development be adopted because in any case IA&AD is mandated to audit regulators unless barred by a specific provision in a statute. Later, realizing that there was a considerable competency gap in the matter of audit of regulatory authorities in IA&AD, C&AG Kaul laid special emphasis on specialized training needs of field audit offices for carrying out Performance Audit of Regulatory Bodies. Several instructions were issued by Headquarters towards this objective. A circular issued by Headquarters in August 2004 to all the concerned Pr. AsG/AsG envisaged a comprehensive role for iCISA in designing, developing and delivering specialized training requirements of the respective audit offices dealing with specific regulatory bodies. In September 2004, this was followed by a D.O. letter to DG, iCISA[4] asking her to take steps to design and deliver the specialized training keeping in view the Report[5] and the Guidelines[6].

But Headquarters soon realized that to fulfil its obligation as detailed above, iCISA itself would need to acquire and assimilate the competency (knowledge and skill) in the first instance. This would be time-consuming. To get over the problem, a different strategy was invoked—of allowing the respective field offices to identify and develop their own training resources in consultation with the respective regulatory bodies and specified training institutes, as identified in the Report on Audit of Regulatory Bodies —Bridging the competence Gaps. The Headquarters, therefore, addressed the concerned DG/ PD Audit accordingly. In this context, Principal Director of Audit, Economic & Service Ministries (PDAESM) who audits CERC, was specifically asked to coordinate the training requirements relating to audit of SERC also. In addition, RTI, Chennai as a Centre of Excellence in the field, developed a very basic structured training module on audit of regulatory bodies which they sent to the concerned audit offices and other RTIs. This is also hosted on C&AG's website.

SECTION 'B' — AUDIT OF DISINVESTMENT/ PRIVATIZATION

The most significant offshoot of the historic Industrial Policy of 1991–92 was the decision of the Government, to open large number of sectors of industrial activities that were earlier exclusively reserved for the Government, to the private operators. This, naturally, resulted in the Government giving up either part of their holdings in the Government Companies or, as happened in later years, fully or substantially withdrawing itself from the ownership and selling the equity to the private entities. Several methods for such disinvestment exist but so far the Government have adopted for example in the first phase of disinvestment, sale of a small percentage of shares by auction of bundled shares of selected PSUs to some pre-identified domestic financial institutions. For Government utilities like Electricity Boards, etc. it followed a system of unbundling of their operations by hiving off the responsibilities of distribution of electricity to a private entity or entities and, during the time of NDA Government, the system of strategic sale for disinvesting equity along with the transfer of management control was undertaken. Finally, in some cases, the disinvestment was also done through floatation or what is popularly known as 'IPO' or 'offer for sale'.

Proposals for disinvestment in any PSU are placed for consideration of the Cabinet Committee on Disinvestment (CCD) chaired by the Prime Minister. Soon after this, an advisor (known as Global Advisor or Financial Advisor) is selected through competitive bidding. Bids for disinvestment are invited through advertisement. An Information Memorandum is given to prospective bidders. Draft share purchase agreement and shareholder agreement are prepared by the advisor in consultation with bidders, legal advisors, etc. These are finalized by Inter Ministerial Group (IMG) and after approval by CCD sent to prospective bidders for final binding financial bids. The bids are opened by IMG and compared with reserve price. After analysis and evaluation of bids, recommendations of IMG and Core Group of Secretaries on Disinvestment are placed before CCD for decision on selection of strategic partner and signing of agreements. In case the disinvested PSU's shares are listed on the Stock Exchange, an open offer would be required to be made by the bidder before closing the transactions, as per SEBI guidelines.

After the transaction is completed, all papers and documents relating to it are turned over to the C&AG who conducts evaluation an audit evaluation for reporting to Parliament if considered necessary by C&AG.

The first disinvestment decision was taken along with the decision to liberalize the economy in 1991–92, when the Finance Minister, in his interim budget, mentioned about the Government's decision to disinvest 20 per cent of its equity in selected PSUs in favour of mutual funds and investment institutions in the public sector. This disinvestment, carried out in two phases in December 1991 and February 1992, raised Rs.3038 crore from sale proceeds of shares held in 31 selected PSUs.

The first disinvestment audit was done by the office of PDAESM, in September 1992. Later Headquarters issued instructions to the effect that audit of disinvestment should be conducted by DGACR. This was done because the Ministry of Finance was the service ministry for the 'Core Group of Secretaries' on disinvestment and it also used to process recommendations of the Disinvestment Commission that was set up.

The Government set up Disinvestment Commission[7] in August 1996 initially for a period of 3 years for the purpose of advising it on all aspects relating to public sector disinvestment. The terms of reference, inter alia, included drawing a comprehensive, over all long term disinvestment plan for the PSUs referred to it by the Core Group of Secretaries including extent of disinvestment in each PSU and determining the *inter-se* priority of the PSUs to be disinvested (referred to it by the 'Core Group'). The Commission was also to recommend preferred mode of disinvestment of each identified PSU and take decisions on instrument, pricing, timing etc. of disinvestment and select financial advisors for specified PSUs. The Commission submitted 12 Reports involving 58 PSUs. It recommended strategic sale for 36 PSUs involving transfer of management for initial disinvestment. The Commission, after its reconstitution in July 2001, submitted reports on 41 PSUs including four review cases. It was finally wound up in October 2004.

Meanwhile, in December 1999, the Government established a new Department of Disinvestment (DOD) for laying down a systematic policy approach to disinvestment and privatization. The Department deals with all matters connected with disinvestment of Central Government equity from Central PSUs including decisions on the recommendations of the Disinvestment Commission on modalities of disinvestment, restructuring, implementation of all the

decisions taken on disinvestment by the CCD (including appointment of Advisors), pricing of shares, and other terms and conditions of disinvestment. The Government in a policy shift in 2000–01 announced that it was prepared to reduce its stake in non-strategic PSUs even below 26 per cent, if necessary. It also decided to set up a Disinvestment Proceeds Fund which would be used for expenditure on social sector, reconstruction of PSUs and retiring/ servicing of public debt.

Privatization got a boost in NDA regime under Prime Minister Vajpayee, when, for the first time, a policy of 'strategic sale and giving up management control' was introduced. The approach of the present Government to disinvestment has undergone a qualitative change. According to the 'National Common Minimum Programme' the Navratna PSUs are to be retained in the public sector and privatization in other cases is to be considered on case to case basis. In general, the principle will be that profit making PSUs would not be privatized. Simultaneously every effort will be made to modernize and reconstruct the sick PSUs. The privatization process has, therefore, slowed down in the present regime; this is revealed by the facts given below:

Government realized disinvestment proceeds of Rs.47,671.62 crore during 1991–2005, which included Rs.36,007.20 crore from the sale of minority shares in 43 PSUs during this period and Rs. 1317.23 crore during 2000–2001 from the sale of majority shares of Kochi Refineries Limited (KRL), Chennai Petroleum Corporation Limited (CPCL) and Bongaigaon Refineries and Petrochemicals Limited (BRPL) to sister PSUs. Of the total proceeds of Rs. 36,007.20 crore, Government realized Rs.15,205.35 crore and Rs.2700.06 crore during 2003–2004 and 2004–2005 respectively by divesting minority shareholding through the market sale route, either through Initial Public Offer or Offer for Sale. Subsequently, Government adopted the strategic sale route for disinvesting equity in the PSUs during the period 1999–2004. Government privatized 11 PSUs and 22 hotel properties of HCI and ITDC through the strategic sale route and realized Rs.10,347.19 crore.

The audit of disinvestment of Government companies started immediately after the first phase of disinvestment was carried out by the Government in 1991–92, and audit was conducted by the office of PDAESM during 1992. The outcome of this audit is contained in C&AG's stand alone Audit Report for the year ended 31 March 1992 (No.14 of 1993) (Civil). Subsequently, PDAESM

carried out another audit on 'Disinvestment of Government Shareholding in PSEs during 1992–1996'. A draft of the Review Report was sent by PDAESM to Headquarters in September 1997 and based on the observations of the Headquarters revised versions were sent in October 1997 and February 1998. Revised draft included the observations from the records of DPE also which were earlier missing. The Headquarters eventually referred the review back to PDAESM observing that fundamental issues had not been addressed in the review. It also observed that review was based solely on the scrutiny of records in DPE, while the records of Department of Economic Affairs (DEA), Ministry of Finance (MOF), which serviced the Core Group of Secretaries (CGS) on disinvestment, had not been studied in audit. Since, PDAESM was not the audit officer for DEA, Headquarters, in September 1998, issued instructions that since the Ministry of Finance serviced the Core Group of Secretaries and recommendations of the Disinvestment Commission are processed by the Core Group under the Ministry of Finance the audit of disinvestment, in future, should be conducted by DGACR which was the principal audit officer of Ministry of Finance. The office of PDAESM would provide all the inputs to the DGACR arising out of their audit of department of public enterprises. However, by a subsequent letter of 15 December 2000 Headquarters issued instructions taking away the audit of disinvestment from DGACR and entrusting the same back to the office of PDAESM. This was done because, in the meanwhile, Department of Disinvestment had been constituted by the Government of India in 1999 as a nodal ministry for all disinvestment proposals and PDAESM was designated as the auditor of that Department. Currently, all disinvestment proposals are in the domain of PDAESM.

AUDIT EXPERIENCE OF DISINVESTMENT

The first audit of disinvestment, as mentioned above, was done soon after the event. This was remarkable considering that normally the audit of transactions of a particular year is programmed in the next cycle that is the following year, and since the C&AG was venturing into disinvestment audit for the first time without any background, this step was even more remarkable. It has not been possible to trace the reasons for C&AG stepping into audit of disinvestment so soon after this disinvestment but, an analysis of the prevailing circumstances points to the fact that some criticism had started appearing in the media which was also heard in the Parliament about

the method of this fist time disinvestment. It is likely that the C&AG decided to carry out his audit in the interest of producing a timely report to the Parliament on this subject of great topicality. A stand alone audit report was presented to Parliament in May 1993. Unfortunately most of the initial records of this first audit are not readily available in the audit office and from whatever records are available and verbal interviews, the planning for this new audit can be described something like this:

The PDAESM constituted a team headed by a young IA&AS officer of Deputy Director[8] level to carry out this audit. The first difficulty encountered in conducting this audit was when they visited the Department of Public Enterprises, which was the nodal Ministry, and they found that most of the files connected with the disinvestment had been taken away by the CBI. Apparently, it was under CBI scanner even before audit went for it. However, it is to the credit of CBI that they agreed to part with these documents for the sake of C&AG's audit.

An uphill task it was because there was no previous case of such disinvestment or its audit in India and the audit team coped with this entirely new job by trying several options. They wanted to interact with the Financial Advisor of the Department of Public Enterprises but unfortunately they were not given time despite repeated requests. They then looked to sources from where they would get useful inputs on the disinvestment exercise. An officer of the DPE[9] who was relatively junior but very closely involved in the process of disinvestment was the principal reference person for the Audit team and he was readily available for Audit. Unfortunately, at that point of time there were no INTOSAI guidelines on audit of disinvestment. Its committee on the subject was set up about a year later[10]. The audit team for their reference had a couple of audit reports by NAO on disinvestment but the nature of disinvestment in UK was entirely different from that of what happened in India. Here, in India, the disinvestment was a queer mixture of parting of minority shares in a restricted manner to a pre-decided group of mutual funds and investment bankers, through a concept of bundled shares of various varieties in a basket. Such a complex exercise for disinvestment was unique. Perhaps, in their anxiety to raise the resources at the earliest due to the financial mess in which the Government was, and preferring to follow a safe course, the Government had undertaken this kind of route. In addition, the entire process of disinvestment decision was taken post haste.

In such circumstances, what eventually helped the audit team was basic skills of an auditor which they had learnt in the Department and the fundamental skills of an auditor namely scrutinizing the process of disinvestment as per the records in a meticulous manner, gathering the facts and figures and verifying the system and process of disinvestment, through the file with some knowledgeable officials in the Ministry.

The result was not disappointing. Considering that they were up against a kind of disinvestment which was unique, the audit team should be given the credit for bringing out a credible document on disinvestment audit which generated a high, intense debate in the Parliament and in the media about the correct methods of disinvestment.

After the first disinvestment audit, there was a considerable lull in further disinvestment and not much was done on this front till the NDA Government came to power. Audit conducted a review on disinvestment of government shareholding in Public Sector Enterprises during 1992–96. This review report, however, as already explained was not found acceptable.

The change in the method of disinvestment that came about around the year 2000 was of a substantive nature. The government made a departure from its earlier practice. The majority government stake in the company 'Modern Food Industries' was sold to Hindustan Lever Limited (now called Unilever India) as strategic partner along with transfer of management control. Later in March 2001, the government sold 51 per cent stock in respect of BALCO[11]. In this case also, management control was transferred to Sterlite Industries. This approach was apparently significantly different from the earlier approaches to disinvestment where only limited shares were offered for sale. In these two cases majority government holding was sold to a strategic partner along with transfer of management control. After this, it became the pattern and a number of other disinvestment transactions were also done on the same basis[12].

BROAD APPROACH TO DISINVESTMENT AUDIT-2002

When the Department of Disinvestment was set up in December 1999, the Minister incharge Arun Shourie was keen that C&AG should carry out audit of all the disinvestments of PSUs and a report submitted by him to Parliament. Considering the high voltage atmosphere that any disinvestment proposal or actual disinvestment

of a company generates in India, Shourie's desire was probably to get an assurance from a neutral constitutional authority like the C&AG about the fair and proper procedure followed in the disinvestment process. He addressed the C&AG twice on this issue and he also made a statement in the Parliament in the year 2000, about his intention to get all the disinvestments audited by the C&AG on which a report to the Parliament would be presented. Shourie also wanted that the C&AG should get involved in the disinvestment process from an early stage rather than do it post sale. He wanted C&AG to assess whether it would be appropriate to nominate an officer to participate in the deliberations of the Internal Ministerial Group (IMG) or get associated with disinvestment exercise in any other form. Shourie had quoted at length several provisions from the INTOSAI Guidelines on Best Practices for Audit of Privatization.

C&AG Shunglu, did not agree to the proposal and intimated in his letter of 23 November 2000 to Shourie that normal procedure of audit was to conduct an inspection once a year and send the inspection report to the Ministry. In case, there were significant audit findings considered fit for being reported to the Parliament, those cases were included in the C&AG's Audit Report. The inspection reports are issued only to the Ministry and not released either to the press or to the Parliament from C&AG's office. The C&AG, went on to assure the minister that in view of his concern for transparency in disinvestment, his office would be prepared to take up the audit of each disinvestment case as soon as the Ministry was ready with the documents. A separate inspection report would be issued in every case to the Ministry but mention will be made in the Audit Report of those cases only which merit inclusion in the Audit Report, as is the usual practice. The foregoing set out the broad approach to disinvestment audit as it obtained in the time of C&AG Shunglu.

The Secretary of the Department, Pradip Baijal had written to the C&AG, on 6 August 2001 requesting him to vet a note they had prepared on standardization of valuation methodology for disinvestment. This methodology would be common to all the three business valuers of Air India. After a careful consideration this proposal was not accepted by the C&AG and on 16 August 2001 ADAI informed Secretary DOD Pradip Baijal accordingly.

NEW APPROACH TO AUDIT OF DISINVESTMENT

On a note submitted by the then DAI (Commercial) raising the issue of formulating a broad approach to Audit of Disinvestment, C&AG

Kaul got this matter examined from the concerned Wing (Report Central) and approved a policy (November 2002) on the subject which has the following salient features:

- Audit need not review or comment on questions of policy —it is Government's prerogative to formulate policy.
- Regarding methodology adopted for disinvestment, audit should focus itself on the process of disinvestment and ensure that it was transparent, fair and proper, consistent and containing safeguards to protect Government interest.
- On valuation, audit scrutiny will be confined to the process of valuation, its appropriateness, and the validity, reliability and consistency of assumptions underlying the valuation.
- Audit must not substitute the Department's assumption with its own.
- If a Reserve Price is fixed, audit can examine the manner of its determination and its relationship with the final sale price obtained.
- Other aspects to be covered in audit are appointment of Global Advisors, the share purchase agreement and shareholders agreement, the bidding process and approvals to various processes, etc.

Certain important administrative decisions were also taken. While the audit of Disinvestment will be undertaken by the PDAESM, under whom the concerned administrative Ministry viz. Department of Disinvestment fell, it was also enjoined that in view of considerable accounting and auditing skill for audit of PSUs that commercial wing AOs/ AAOs have, services of a couple of these officers should be made available to PDAESM.

GUIDELINES ON AUDIT OF PRIVATIZATION

While forwarding the new approach to PDAESM, Headquarters asked him to prepare general guidelines for the conduct of audit of privatization and forward the same to Headquarters for approval and issue. It was also decided that all pending Inspection Reports on Disinvestment would need to be re examined in the light of these decisions.

The draft Guidelines as formulated by the office of PDAESM were approved by C&AG in May 2003. The Guidelines on Audit of Privatization were finally issued by the Headquarters in August 2005. These were based mostly on the experience of 'strategic sale'

and flotation routes disinvestment process. INTOSAI guidelines were kept in view while formulating them. These guidelines supersede all earlier guidelines or instructions on the subject. The Guidelines were circulated to all the stake holders in keeping with C&AG Kaul's philosophy of transparency in auditing systems. Earlier C&AG had asked that INTOSAI Guidelines on Privatization Audit should also be shared with all stakeholders.

The C&AG had a relook at the audits done during 1999–2000 and 2002–03. This involved 9 PSUs[13]. He decided to have the results published.

SEMINAR ON DISINVESTMENT

In October 2001, the then C&AG Shunglu convened a seminar on disinvestment in public sector to have exchange of views between audit, the executive, stake holders and merchant bankers/firms of Chartered Accountants dealing with valuation, etc. The idea was to discuss all the relevant issues and problems relating to disinvestment like valuation—the various facets of valuation, relevance of reserve prices, issue of control premium, role of audit in disinvestment, allocation of proceeds of disinvestment, role of audit in valuation and its role in pre disinvestment phase and audit of post sale commitments and finally developing expertise in the conduct of privatization audit. C&AG emphasized on the need for effective utilization of disinvestment proceeds. He also referred to the clear distinction between the disinvestment and offloading of equity by Government without parting with Management Control. The seminar consensus was for complete offloading of Government holdings. The seminar also briefly discussed decision making process involved in disinvestment.

The seminar had presentations from SP Billimoria & Company on valuation methodology and a presentation by Pradeep Baijal, the then Secretary, Department of disinvestment on Government view point on disinvestment. There were presentations by SBI Capital Markets on valuations.

C&AG emphasized during the Seminar on proper synergy between the Report Central Wing—who are the concerned wing for privatization audit—and the Commercial Audit wing of his office whose expertise in PSUs audit was excellent. (Specific decisions in this regard were issued from Headquarters and special teams of Commercial audit AOs were posted on deputation basis to the office of PDAESM to assist their team in the audit of disinvestment).

JUDICIAL DECISIONS

Two other notable developments concerning Audit of Privatization are worth recalling since they have profound impact on Privatization policy & issues.

Disinvestment policy issues have been subjected to a judicial review in the highest Court of the land, the Supreme Court who[14], categorically said that they would not go into the issues of policy. The Supreme Court decision set several other significant pointers for the future.

Regarding workers interest, the Supreme Court concluded that safeguarding workers interest was one of the concerns of Government and that efforts should be made to try and ensure that the disinvestment process did not adversely affect the workers. The Court expressed its satisfaction about these interests in case of BALCO sale.

The Supreme Court went into the question of transparency and held that 'transparency does not mean conducting of Government business while sitting on the cross roads in public. Transparency would require that the manner in which decision is taken is made known. Persons who are to decide are not arbitrarily selected or appointed …..'[15]

On Reserve Price, the Court held that 'what has to be seen in exercise of judicial review of administrative actions is to examine whether the reserve price which was fixed is arbitrarily low and on the face of it, unacceptable'.

The judgment contains some 'landmark decisions' which can guide audit also in its future work.

Some interesting Paragraphs from the Audit Reports that relate to disinvestment of government companies are discussed below:

Disinvestment of Government Shareholding in selected Public Sector Enterprises during 1991–92: C&AG's Report on Disinvestment of Government Shareholding in selected Public Sector Enterprises during 1991–92 is contained in Report No.14 of 1993 placed in Parliament on 7 May 1993.

The main thrust of Audit Report on this disinvestment is summarized below:

The DPE recommended disinvestment of shares of 41 PSEs out of the 244 existing PSUs. They had certain criteria for picking up the PSEs for disinvestment through which they excluded some PSEs from the purview of disinvestment namely those which were under construction stage, whose Net Asset Value was either negative and

less than the face value of the shares, those which were of insignificant size and where current level of profitability was very low, those falling under section 25 of the Companies Act and those in whose shares of Government were already below 60 per cent, etc. Certain PSUs which were in strategic sector like oil or those that were meeting defence needs were also excluded. Out of these 41 PSEs, 10 were later excluded and therefore finally 31 PSEs were considered for the first set of disinvestment.

The methodology to categorize these PSEs as 'very good (8 companies), 'good' (12 companies) and 'average' (11 companies) was adopted on the basis of Net Asset Value (NAV) per share vis-à-vis face value of Rs.10. The PSEs whose NAV was Rs.50 and above per share were categorized as 'Very Good' between Rs. 20 and Rs. 49 per share as 'Good' and from Rs.10 to Rs.19 as 'Average'. The valuation of shares of PSEs was done on the basis of guidelines for such valuations formulated by a Committee under the Chairmanship of then Secretary, DPE. Based on this, the NAV and the action to categorise those into very good, good and average was carried out in respect of PSEs. A Consultant was also appointed in 1991 by the Government to advise on the pricing of the shares of the selected PSEs.

The Government had decided that the disinvestment would be carried out in two phases, the level of disinvestment would be from 5 to 20 per cent and in no case, Government shareholding would fall below 51 per cent, the shares should be sold in the form of bundles consisting of 9 PSEs each (3 PSEs from each category i.e., very good, good and average) through a process of bidding and finally shares were to be sold to only mutual funds and investment institutions in the public sector who would off-load these gradually into the market so that they assure a wider holding of ownership of these shares.

The reserve price of shares of each selected PSE was fixed by DPE in consultation with the representatives of the PSEs concerned, Administrative Ministry of PSE and Ministry of Finance in December 1991 for the sale of these shares of 31 selected PSEs.

After the bids were opened on 18 December 1991, the Department of PE found that the bid prices were far below the reserve prices and therefore, these could not be accepted. The Government was therefore, approached and their orders obtained for empowering DPE to sell the shares of selected PSEs by accepting the highest bids including single tendering offers 'so long as these were above an overall of the Net Asset Value (NAV) and Profit Earning Capacity Value (PECV) computed using an overall

capitalization rate of 20 per cent'. However, during evidence before the PAC, it came out that the Cabinet was not apprised in the Note submitted to them about the effect of the revised reserve price and earlier reserve prices; hence, to that extent it was a flawed decision.

Audit had commented about a possible loss by way of under realization of proceeds of Rs.3441.71 crore to the Government as a result of unjustified action of reduction in the reserve price. The PAC asked the Finance Secretary about the audit conclusion to which the Finance Secretary said that he did not accept this conclusion but he conceded that they could always improve on what they were doing. The PAC commented on this specific aspect, stating that while it was clear that the disinvestment entailed loss of shares, the magnitude of the loss could be anybody's guess.

Audit had also made a critical observation on the absence of a claw back clause in the terms and conditions for the sales and this was so despite the recommendation of the Chief Advisor (Cost), Ministry of Finance as well as the Chief Executive of the BPCL, both of whom were members of the Evaluation Committee. Such a clause was incorporated in Great Britain where they were undergoing this process of disinvestment. The PAC came down heavily on this too and the Government conceded the point.

Audit was very critical of the system of bundling of shares especially including the shares of certain companies like Cochin Refineries and Andrew Yule which were already listed in the stock exchange. The PAC also commented on this adversely. From the proceedings of the PAC however, it comes out that despite the fact that the response to the bidding invitation was considered poor, the Government did not go for rebidding {(even though such advice was rendered by the JS (Investment)} because of the fact that Government was in a terrible hurry to raise the additional resources urgently and in any case before the end of December 31, 1991. The PAC commented adversely on this and in their view most of the problems and the shortcomings could have been avoided if the Government had not chosen to push through disinvestment in hurry to raise resources by the end of December 1991. The Committee was not satisfied about the extraordinary pressure which necessitated such grave urgency resulting in incalculable loss due to the under realization on the sale of PSU's shares.

The Committee also agreed with audit about the role of Valuation Committee and the lack of participation by other members in the committee.

Sale of HCI Hotels in Mumbai:C&AG's Report on the sale of two hotels, Juhu Cenatur and Airport Cenatur at Mumbai is contained in his Audit Report 'Union Government Transaction Audit Observations—No. 2 of 2005'. The main audit thrust in these two cases was that the sale transactions of both the hotels which were conducted in March 2002 (for Juhu Cenatur) and April 2002 (for Airport Centaur) became 'sole bidder cases' without the benefit of competition. Audit was of the view that 'the efforts of the Government in generating adequate competition and maintaining the competitive tension were not evident from records'. Valuation of the properties and fixation of reserve price were not consistent with the practice followed by the Ministry in other cases. Various relaxations allowed to the bidder and interventions by the Ministry to facilitate the sale, were also viewed unfavourably by Audit. In the case of Airport Centaur, Audit found inconsistent approach in fixing reserve price. The Evaluation Committee came in for particular comments by Audit because of its inconsistency in approach fixing base case value in respect of two hotels in the second round of bidding. Audit called this approach 'peculiar'. Proper efforts to balance the need and urgency to sell the properties and to obtain the best possible price from the sale were seen as lacking. Audit was also harsh on the grant of repeated extensions and relaxations to the bidder of Juhu Cenatur to facilitate the sale.

C&AG's Audit Report on Disinvestment of PSUs:The performance audit of major transactions relating to disinvestment of Government Shareholding in Selected Public Sector Undertakings during 1999–2003 in 9 PSUs are contained in a stand alone volume (No.17 of 2006). Audit scrutiny of disinvestment of 9 PSUs namely, Modern Food Industries Limited (MFIL), Bharat Aluminium Company Limited (BALCO), Hindustan Teleprinter Limited (HTL), Computer Maintenance Corporation Limited (CMC), Hindustan Zinc Limited (HZL), Videsh Sanchar Nigam Limited (VSNL), Indo Burma Petroleum Company Limited (IBP), Indian Petrochemicals Corporation Limited (IPCL) and Paradeep Phosphates Limited (PPL) revealed that clear objectives for each case of disinvestment were not laid down although, broad objectives of overall disinvestment programmes were indicated. Audit Report, amongst others, stated that there was: absence of clear accountability regime for the disinvestment process, shifting responsibility for aspects of valuation and post disinvestment issues among the PSUs, Administrative Ministry and Department of Disinvestment, lack of critical

assessment of work done by global advisors. Also there were several areas where good practices needed to be instituted, post-closing adjustment clause in the share purchase agreement needed a more critical review for its efficacy, there was need to justify in a transparent manner each major assumption affecting valuation of PSUs and finally all essential preparatory work to disinvestment needed to be completed before calling for expression of interest. The delayed decisions by the Government on crucial questions relating to financial health of PSUs including restructuring of the capital could be reasons that adversely affected the generation of more interest and keenness among prospective bidders. The Government had no mechanism to ensure that post disinvestment, the strategic partners had in fact, brought in the technology and finance for all round improvement of the disinvested PSUs. After disinvestment, three PSUs namely MFIL, HTL and PPL were referred to BIFR. In the case of HTL and PPL, strategic partners had made claims of the same order of magnitude to that of sale values on the government. In the case of VSNL, the Government could not derive any benefit from the surplus land in the possession of the company. In the case of BALCO, VSNL, PPL and IPCL, inadequate attempts of the Government to get the title deeds to the lands and buildings and remove the encumbrances impacted the valuation adversely as the asset valuer discounted or did not consider the value of such properties. The audit examination revealed that conservative assumptions made by the global advisors in 7 out of 9 PSUs were made for valuation under discounted cash flow methodology. This had impacted adversely the business valuation.

SECTION 'C' — ENVIRONMENT AUDIT

Of the new and emerging audits of the Comptroller and Auditor General, perhaps the most challenging is environmental audit. Audit of environment had attracted attention of INTOSAI since 1990s and it has constituted a Working Group on Environmental Auditing of which India is a member. The Working Group has various Research Committees and so far 9 papers on different aspects of Environmental auditing have been brought out. These serve as guidelines on Environmental Audit.

Environmental issues attracted the attention of world community as early as 1972 when the first major international event in this area took place under the auspices of United Nations – this was the UN Conference on Human Environment held in Stockholm in 1972. The momentum however, picked up during 1990s, after 1990s and beginning of the new millennium. Several International Conferences were held, each one concentrating on a specific environment related aspect. In 1992, the Earth Summit was held in Rio de Janeiro formulating possible strategies for protecting the future of life on earth along with Action Plan and blue print for sustainable development in the twenty first century. The Kyoto Protocol, signed in 1997 was a commitment of the 166 countries to reducing or restricting green house gases emissions. The world summit on sustainable development in Johannesburg in 2002 was yet another land mark in this context. The summit analysed the achievements so far and proclaimed again for collective commitment to sustainability.

In India, the awareness about environmental related issues and its approach to sustainable development have been high on the agenda. A number of legislations were enacted towards Environmental Protection. In 1986, the all encompassing Environmental Protection Act was proclaimed empowering the Government to bring out appropriate regulations to address any pressing environmental concerns. Under this Act, the Environmental Protection Rules were framed in 1986, the Biomedical Waste (Management and Handling) Rules in 1998 and the Hazardous Wastes (Management and Handling) Rules in 1989 and a host of others like rules on Ozone Depletion, Municipal Solid Wastes and the Noise Pollution which were all proclaimed in year 2000. The Government has also set up regulatory institutions and standards for ambient air, water and waste disposal.

APPROACH OF C&AG IN ENVIRONMENTAL AUDIT

Chapter 19 of 2002 edition of C&AG's Manual on Standing Orders (Audit) deals with various facets of Environmental Auditing. In the very beginning, it defines audit objectives of this audit as 'to ensure that appropriate and adequate policy and procedures are in place and are duly complied with to achieve the goal of sustainable development'. The INTOSAI Working Group on Environmental Audit had prepared guidelines and standards for assisting SAIs in conducting Environmental Audit with financial, compliance and Performance audit frameworks. The Manual also sets out an audit approach for Environmental Audit which would be conducted within the broad framework of Regularity and Performance Audit.

ROLE OF REGIONAL TRAINING INSTITUTE (RTI), MUMBAI

RTI, Mumbai (established in 1980) caters to the training needs of the 16 offices of the IA&AD situated in Mumbai, Pune and Goa. The Comptroller and Auditor General of India designated RTI, Mumbai as a nodal training institute and centre for excellence for Environmental Auditing in 2002. As a nodal institute, it was to play lead role in the area of Environmental Audit. The institute as a first step decided to go for capacity building in the area of Environmental Auditing. A Principal Director (AG level) was posted as head of the Institute in September 2003. In December 2003, it organized a five days training programme on Environment Audit basically, for the cutting edge level officers. On the directions of C&AG of India, the institute developed a Structured Training Module (STM) in 2004. In this STM on Environmental Audit important inputs were taken from INTOSAI Working Group on Environmental Auditing papers, training material developed by IDI and India's experience in Environmental Audit. The Institute organized 'training for trainers' and the first training programme for trainers based on the revised STM was organized in June 2004 for 3 days which was inaugurated by the C&AG of India.

RTI, Mumbai also collaborated with other RTIs and RTCs in organizing training in Environmental Audit in their respective institutes. According to the estimates of RTI, Mumbai, the total officers trained in Environmental Audit upto the end of 2005 was 566 which included 49 Group officers.

The Institute compiled and disseminated a good deal of literature on Environmental Auditing to all the training institutes under C&AG

as well as Audit offices and iCISA and National Academy at Shimla. These include:

- STM on Environmental Audit;
- Compilation on 77 Environmental audits undertaken by SAI India;
- Central legislations on Environmental Audit;
- Nine International Environmental Accords signed by Government of India;

In 2006, the institute disseminated to all the above institutes the following products:

- WHO Water Quality Publication;
- Training material on Clean Development Mechanism;
- Compendium on the First and Second Workshop on Natural Resource Accounting (NRA) organized by the institute

The institute is actively participating in Natural Resource Accounting work and it organized a workshop on NRA in February 2006 in collaboration with Central Statistical Organization, the nodal agency in development of statistical system and data in India and in November 2006, a second workshop on NRA at iCISA, Noida for Principal Directors/Principals of RTIs/RTCs and Group Officers of the Audit Department. The institute had designed and developed an Environmental Audit Manual and presently it is awaiting approval of the Headquarters. The institute has also prepared Structured Training Module on Natural Resource Accounting which is pending approval from Headquarters.

ENVIRONMENTAL AUDIT—SAI INDIA'S EXPERIENCE

INTOSAI Working Group on Environmental Audit Guidelines has classified Environmental Audit into five distinct categories:

- Compliance Audit of Environmental laws
- Performance Audit of Environmental programmes/schemes
- Environmental impact of any programme or activity
- Evaluation of environmental policies and
- Audit of Environment Management Systems (EMS)

C&AG of India has already conducted audit of first three categories and brought out results of the same in his Audit Reports. As regards, the fourth viz. evaluation of environmental policies, the C&AG's role is limited to providing inputs through his audit findings for policy improvements like policy formulation and designing of

programmes. IA&AD's initial attempts on Environmental Audit began in C&AG Somiah's time when two or three important audit reviews on environmental aspects were brought out. Of these, mention can be made of Ganga Action Plan which was conceived as a flagship programme for cleaning the river Ganga of all pollutants and a report on 'Afforestation of waste land and agro-forestry' which the C&AG brought out in his 1995–96 Audit Report on Haryana Government. The emphasis on Environmental Audit took a significant jump in Shunglu's period when a series of Environmental Audit related reports were brought out. Of these, C&AG's Report on Ganga Action Plan (revisit) contained in his report for the year ended March 2000 Union Government (Scientific Departments) was a major review on this highly ambitious centrally sponsored scheme and the results of the C&AG's audit were brought out both in the Central Report as well as in the Audit Report of the concerned State Governments. In 1995–96, Audit Report of Maharashtra Government, featured a review on Pollution Control Board of Maharashtra. In 2000–01, Audit Report an important Environmental Audit related review called 'Implementation of Environmental Acts relating to Water Pollution' was brought out which was in the category of Compliance Audit.

A big fillip to Environmental Audit came after C&AG Kaul, recognised the importance of this emerging audit. He also designated the office of PD (Scientific Departments) as the nodal office for undertaking Environment Audit and commissioned RTI, Mumbai as a Centre of Excellence in Environmental Audit. During his period, already there has been a spurt of studies on environmental issues and one of the striking features of these reports is that they comment on the environmental impact of non environmental programmes. For example in C&AG's Report No.4 of 2006 on Defence services which contains Performance Audit Report on three naval projects, audit has also commented upon the environmental impact of certain actions namely on coastal ecosystems, destruction of flora, fauna and degradation of beaches. Similarly, in his Performance Audit Report on Railways—2006 which features, interalia medical and health services also non maintenance of the prescribed standards for drinking water and food products and non-conformity in disposal of bio-medical waste management in railway hospitals are highlighted. Incidentally, the report also has given recommendations on creation of such facilities. In Audit Report No. 11 of 2007, audit has commented that railway did not have an environment policy to dispose off e-waste and the obsolete or unusable computer hardware

were disposed off like any other ordinary scrap. It has been recommended that a policy for disposal of e-waste in line with international practices needs to be defined urgently in view of the quantum of e-waste generated by the Railways. Similar comments have been made in C&AG's Report (No. 2 of 2006) on Department of Atomic Energy where the authorities have not installed incinerator systems even after nine years causing thereby environmental hazard by inefficient nuclear waste management. Similar comments have been made by C&AG in his audit of BHEL regarding delay in commissioning of Air Pollution Control System in one of the plants in BHEL. In 2006 however, C&AG brought out a full fledged Environmental Audit Report titled 'Conservation and Protection of Tigers in Tiger Reserves'. Similarly, AG West Bengal has undertaken Environmental audit of arsenic alleviation programme in 2006 Report. AG, Himachal Pradesh has brought out an impact of Government commercial and trading activities on air, water, soil pollution.

This heartening feature of environment related reports appearing in defence, railway or civil reports of the C&AG is specially praiseworthy because 'EA reports were a rarity in SAI India's non–civil reports before 2004, unlike environmental concerns being increasingly reflected in recent reports.' The Performance Reports on Environmental Audit conducted now are well structured in line with the INTOSAI Performance Audit framework as adopted in SAI's Performance Audit guidelines.

In 2007, an exclusive Performance Audit was brought out on Environment Audit of Mumbai Port Trust.

AG Maharashtra brought out a Performance Audit Report as a Stand alone volume on the theme 'Floods in Maharashtra—Preparedness and Response' (Report laid in 2006). The Report included an examination of Disaster Management Plan also.

NOTES: CHAPTER-15

[1] Discussion Paper of Planning Commission titled'Approach to Regulation of Infrastructure : Issues and Options

[2] C&AG's D.O. of August 9, 2004 to Nripendra Mishra, Chairman, Telecom. Commission and Secretary, Department of Telecom.

[3] Shri Kanwal Nath, DGA (P&T)—For TRAI; Dr. A.K Banerjee, DGACR—For IRDA;PDAESM—For CERC

[4] Shovana Narayan

[5] Audit of Regulatory Bodies—Bridging the Competence Gaps

[6] Guidelines on Performance Audit of Regulatory Bodies

[7] The Commission was headed by Chairman and had amongst others 4 part-time Members.

[8] S.K. Bahri who was then Dy. Director

[9] The officer of the rank of Deputy Director was in fact a key person in the disinvestment process

[10] The Committee was set up under the Chairmanship of Sir John Bourn, British C&AG. India was one of the members of the group.

[11] Shares were sold to Sterilite Industries

[12] This involved 12 more companies

[13] Modern Food Ind. Ltd., Bharat Aluminium Company Ltd., Hindustan Teleprinter Ltd., Videsh Sanchar Nigam Ltd., Indo-Burma Petroleum Ltd., Indian Petrochemicals Pvt. Ltd., Paradeep Phosphates Ltd., Computer Maintenance Ltd., Hindustan Zink Ltd.

[14] The decision of Supreme Court was on the various writ petitions challenging the decision of the government to disinvest 51 per cent shares in BALCO including a PIL.

[15] Gist of the judgment of Supreme Court was brought out by PD (RC) in his note dated 27 December, 2001 submitted to C&AG.

LIST OF KEY EVENTS-SECTION 'A'

28 March 1997	The Telecom Regulatory Authority of India Act, 1997 published in the Gazette. Section 23 of the Act prescribed audit of the accounts of the Authority by the C&AG.
2 July 1998	The Electricity Regulatory Commission Act, 1998 published in the Gazette. Section 32 and 34 of the Act provided for the audit of the accounts of Central Commission and State Commission respectively.
19 January 2000	C&AG wrote to Prime Minister that a Group on Telecom and I.T. is in the midst of finalizing its conclusions abridging the role of audit and this has the potential of drawing government into controversy without serving any purpose.
January 2000	An 'Explanation' was added under Section 23 of TRAI Act, 1997 that the decisions taken by TRAI in the discharge of its functions under Clause (b) Sub-section 1 and Sub-section 2 of Section 11 in addition to section 13 were excluded from the audit scope of C&AG.
April 2001	Audit of Regulatory Bodies discussed in the Accountants General Conference.
7 May 2003	C&AG ordered that the Action Plan for skill development can be adopted since we are mandated to audit Regulators unless barred by a specific provision in a statute.
29 May 2003	C&AG wrote to Minister of Disinvestments, Communication and I.T. requesting his intervention in the matter so that legislation is harmonized with the prevailing position on the accountability of economic regulators, other than TRAI.
January 2004	Chairman, PAC wrote to Prime Minister stating that the matter was discussed by the PAC on 21 January, 2000 and the members were exercised about the proposed ordinance contemplating to do away with audit and accountability to PAC and Parliament. He hoped that patently wrong directions being taken is set right.
4 and 5 August 2004	Rajasthan Electricity Regulatory Commission and Tamil Nadu Electricity Regulatory Commission protested against the Performance Audit of Electricity Regulatory Commission.
6 September 2004	Principal Director (AB) wrote to DG (Training) iCISA that course design and delivery for skill development for the performance audit of regulatory bodies is to be carried out by iCISA.

18 November 2004	It was decided that respective field offices would identify and develop their own training resources in consultation with Regulatory Bodies and specified training institutes.
29 December 2004	Instructions issued to field offices that audit of accounts of Electricity Regulatory Commission would include performance audit but orders passed by the Commission in exercise of quasi-judicial functions would not be within the scope of audit.
22 June 2005	ADAI wrote to Chairman, Central Electricity Regulatory Commission that examination of the matter in consultation with Ministry of Law revealed that audit can comment on economy, efficiency and effectiveness of Electricity Regulatory Commission.

DOCUMENTS

1

No. 2-C&AG/2000.
January 19,2000

V.K Shunglu
Dear Prime Minister,

The Group on Telecom and IT constituted by Government on 13 December 1999 is in the midst of finalizing its conclusions on a variety of issues. What prompts this letter is a report in the Indian Express of 18 January 2000 suggesting that there is broad agreement on abridging the role of this office. Informal inquiries reveal that this report is not unfounded.

Before this issue becomes another controversy, I believe that some crucial facts ought to be taken into account. In my opinion, the Tariff Regulatory Authority has two major functions (i) to adjudicate on disputes and (ii) to set tariff. The first function has hitherto not been performed within Government; it is a quasi judicial function and to that extent requires a judicial review rather than any jurisdiction for audit. The second function of setting tariff was an executive function, which it is now proposed, the Regulatory Authority should discharge without accountability to Parliament by keeping it away from the ambit of my audit. This function howsoever worded, remains in the main the same as what Government used to do. Hence, all audit provisions, which were available in relation to this function, prior to the establishment of TRAI, must remain. Since nothing has changed nothing must change regarding accountability and this is the crucial issue. Any other interpretation can only be seen as trying to conceal from the people and from Parliament something which they are entitled to know. I am not getting into the substantive portion of the enactment because this would be differently framed by different people. I am merely drawing your attention at a crucial stage to an issue which has the potential of drawing Government into controversy without serving any purpose.

With regards,

Yours sincerely,
SD/-
(V.K. Shunglu)

Shri Atal Bihari Vajpayee
Prime Minister of India,
New Delhi

2

VIJAYENDRA N. KAUL No.145-C&AG/2003/AB
May 29, 2003

Dear Minister,

Kindly recall our conversation regarding the amended provisions of the TRAI Act 1997, which abridged the scope of audit by Comptroller and Auditor General.

The function of economic regulation is a critical element of the privatization process. Such regulation is generally understood as exercise, by the State, of control or influence over service providers, whether publicly or privately owned. This is an area of growing importance to citizens and governments because the function of economic regulation is performed in public interest.

Elsewhere in the world, Supreme Audit Institutions carry out Performance Audits of economic regulators, and this results in increased efficiencies in the supply of regulated services. The central orientation of Performance Audits is to ascertain whether a regulatory body is achieving its objectives efficiently. These audits are carried out bySAIs in countries with varying levels of economic development and different political structures. For instance, the National Audit office in theUnited Kingdom has carried out pioneering work in this regard.SAIs in Thailand, Peru andZambia have also carried out audits of regulators.

Performance audits of economic regulators in India is an evolving era for audit and generally the C&AG's jurisdiction has not been questioned as my audit enhances accountability and enables Parliamentary scrutiny so essential for democratic functioning.

However, on account of some misgivings regarding the nature of audit in relation to the telecom sector, Section 23 of the TRAI Act 1997 was amended by the insertion of an Explanation. By virtue of this amendment, several functions of TRAI, unlike those of other regulators, have been excluded from audit scrutiny. For instance, action taken by the TRAI in matters relating to laying down standards of quality of service and the conduct of periodic survey of such services have been excluded. As a result, the scope of Performance Audits has been significantly and unjustifiably curtailed by keeping several records beyond the range of audit examination. This situation, even if strictly legal, is singular within the Indian Statutory framework for economic regulators and is against the current of international developments.

The restrictions contained in Section 23 of the TRAI Act also attract attention because there is always a need for the regulatory body to be accountable for its operations, in order to develop legitimacy in the eyes of the public. This aspect is particularly significant in view of Section 25 of the TRAI Act which makes the Authority answerable to the Central Government by making it obligatory to comply with Ministerial directions. As a result, the functioning of the Authority is clearly marked by executive characteristics.

The need for legitimacy becomes compelling because, telecom service suppliers have the right of appeal to courts against the regulator's decisions while the consumer does not possess symmetrical rights under the TRAI Act.

It is againt this backdrop that I wish to draw your attention to the potentially damaging implications of the Explanation to Section 23(2) of the TRAI, Act 1997. I would request your intervention in this matter so that the legislation is harmonized with the prevailing position on the accountability of economic regulators, other than TRAI, both inIndia and abroad.

With kind regards

Yours sincerely,
Sd/-
(Vijayendra N. Kaul)

Shri Arun Shourie,
Minister of Disinvestments,
Communications and IT,
Electronics Niketan,
6, CGO Complex,
New Delhi

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S.S. Rajvi IAS

D.O No. 603
Date: 4/8/2004

Dear Shri Bhati

This has reference to your letter No. 178-191/Rep (AB) 101-2003 dated 5.07.04 addressed to the Chairman, RERC seeking suggestions on the departmental publication titled'Guidelines on Performance Audit of Regulatory Bodies'.

As desired, our comments on these guidelines are made as under:

(i) These guidelines seem to have been framed to cover all regulatory bodies and may be relevant to some of them. The Regulatory Commissions in Electricity Sectors are statutory bodies set up under specific Acts. The Rajasthan Electricity Regulatory Commission and other Electricity Regulatory Commissions have been set up under the Electricity Act 2003 and have to perform functions entrusted to them under the Act. Under subsection (2) section 104 of the Electricity Act 2003, the Comptroller and Auditor General of India is required to audit the accounts of the State Commissions. Therefore, so far as State Electricity Regulatory Commissions are concerned, the guidelines should confine to audit of accounts only.

(ii) For performing its various functions, the State Regulatory Commissions have to frame regulations as required by the Electricity Act 2003. The regulations for various purposes have to be framed through a transparent process of their previous publication and are public documents available to any person.

It is requested that the guidelines may kindly be revised looking to the scope of audit of the Electricity Regulatory Commissions under the provisions of the Electricity Act 2003.

With best wishes

Yours sincerely
Sd/-
(Surendra Singh Rajvi)

Shri R.K. Bhati
Dy Director (Exam/AB)
Office of the Comptroller & Auditor General of India,
New Delhi-110002

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TAMIL NADU ELECTRICITY REGULATORY COMMISSION

No. 17, ThirdMain Road, Seethammal Colony, Alwarpet, Chennai-600 018Phone: ++91-044-2435 9156/2435 9215/2432 2037 Fax: 91-044-2435 4982
R. Balasubramanian,
Secretary

To,
The Deputy Director (Exam/AB)
Office of the Comptroller of Auditor General of India,
10, Bahadur Shah Zafar Marg,
New Delhi- 110 002
Letter No. TNERC/DT/TC/F. Act 2003/D 609/2004, dated 5.08.2004
Sir,
Sub: Guidelines on Performance Audit of Regulatory Bodies-suggestions
Ref: Your D.O. Letter No. 178-191-Rep(AB)/101-2003, dated 5.7.04

(1) Performance Audit of Electricity Regulatory Commission is not envisaged in the Electricity Act 2003.

(2) As per Part XI of the Electricity Act 2003, (Central Act 36 of 2003), the Appellate Tribunal for Electricity can hear and dispose any appeal against the orders of the Electricity Regulatory Commission and issue instructions, directions to the Electricity Regulatory Commissions for the performance of the statutory functions under the Act. Any performance audit by the Comptroller and Auditor General will be not only inconsistent with the Act, but also will be construed as transgression into the powers of the Commission / Appellate Tribunal.

(3) The guidelines communicated to the Commission for suggestion cannot be made applicable to Electricity Regulatory Bodies and hence dropped.

Sd/-
Secretary
Tamil Nadu Electricity
Regulatory Commission

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Vijayendra N. Kaul

No. 69-C&AG/2004
August 9,2004

Dear Shri Mishra,

This is with reference to my telephonic conversation with you regarding audit of TRAI by the C&AG. You may be aware of the provisions which were exceptionally introduced under the TRAI Act by an amendment in January 2000 regarding which I have already written to Shri Maran, Minister of Communications and IT vide my D.O. letter dated 10.6.2004.

As an interim measure, keeping the existing provisions of the law in mind, I have formulated performance audit guidelines of regulatory bodies. These guidelines are based on INTOSAI guidelines and benchmarked to best practices being followed in other mature democracies like US andUK.I am enclosing a copy of these guidelines for your information. I would appreciate if these are communicated to regulators in your Ministry so that they are aware that these have been framed to avoid any confusion or doubt in the minds of both the auditors and auditees about the audit mandate. These guidelines are not for annual financial/regularity audits but for performance audits and they are indicative and not exhaustive.

I had earlier sent a copy of these guidelines to all regulators including Chairman, TRAI. The Chairman, TRAI has welcomed the guidelines. He has suggested that before we take up performance audit of TRAI, the concerned auditors must acquire core in-house skills and he has offered assistance in training. The problem raised by him is addressed in Chapter -2 of the guidelines. I have particularly studied the nature of audits by public auditors of telecom regulators in other countries like UK to ensure that practices in our country strike a balance between accountability and the autonomy of the regulator.

With regards,

Yours sincerely,
Sd/-
(Vijayendra N. Kaul)

Shri Nripendra Mishra,
Chairman, Telecom Commission &
Secretary, Department of Telecommunications,
Sanchar Bhavan,
New Delhi

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Copy of letter No.212-Audit(AP)/30-2004 dated 30.11.2004 from Shri N.R. Rayalu, Director General (Audit), Office of the Comptroller & Auditor General of India,New Delhi addressed to All Directors General / Principal Accountants General / Accountants General (Audit) / Principal Directors of Audit.

Sub:Audit of Regulatory Bodies.

Sir/Madam,

I am to invite a reference to Headquarters letter No.133-Rep(AB)/101-2003 dated 1 June 2004 forwarding therewith a copy of 'Guidelines on Performance Audit of Regulatory Bodies'. The position was reviewed in the light of the provisions as contained in the Explanation below Section 23(2) of the TRAI Act, 1997 (as amended in 2000) which stipulates that the decisions of the Authority that are appealable to the Appellate Tribunal are not subject to audit by C&AG. The Guidelines issued by this office are general and executive in nature and cannot supplant the legislations by which the regulatory bodies, like TRAI and IRDA have been set up. The guidelines are only supplement to the statutory provisions of the TRAI Act.

C&AG has therefore ordered that while taking up audit of Regulatory Bodies, it should be kept in mind that the audit should be within the sphere of the Provisions made in the relevant Act regulating such bodies in order to avoid any confrontation between the Act and the guidelines.

Yours faithfully,
Sd/-
(N.R. Rayalu)
Director General (Audit)

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Copy of letter No.384-Audit (AB)/8-2004 dated 29.12.2004 from Shri N.R. Rayalu, Director General (Audit), Office of the Comptroller & Auditor General ofIndia, New Delhi addressed to All Directors General / Principal Accountants General / Accountants General (Audit) / Principal Directors of Audit.

Sub:Audit of Regulatory Bodies.

Sir/Madam,

In continuation of Headquarters letter No.212-Audit(AP)/30-2004 dated 30.11.04 on the subject cited above, the matter was reviewed in the light of references received from different Electricity Regulatory Commissions challenging the authority of the C&AG of India for auditing the matters other than the annual accounts.

It has been decided that audit of accounts of Electricity Regulatory Commissions and Audit Report thereon would include performance audit of these Commissions. It may, however, be noted that orders passed by the

Commissions in exercise of quasi-judicial functions (as its legality and justiceability) would not be within the scope of audit.

The above instructions are equally applicable to other regulatory bodies (like TAMP etc.).

Yours faithfully,
Sd/-
(N.R. Rayalu)
Director General (Audit)

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M.S. SHEKHAWAT

D.O NO 145 Dir(L)/3/2004/Misc/Rep(AB)
Dated:22.06.2005

Dear Shri

Kindly refer to Shri P.K. Mehrotra's, Member, Forum of Indian Regulators D.O. Letter No. 1(2)/C&AG/FOIR dated 02.03.2005 addressed to Shri V.N. Kaul, Comptroller and Auditor General ofIndia, regarding the applicability of the'Guidelines on Performance Audit of Regulatory Bodies' issued by the C&AG. In the letter he had requested that the Electricity Regulatory Commissions should be kept out of the purview of the above guidelines.

All the points mentioned in your d.o. letter under reference have been examined by us in consultation with the Ministry of Law, (Deptt. of Legal Affairs) who have opined that while auditing Regulators under the Electricity Act 2003, the auditor can comment on their economy, efficiency and effectiveness in the audit report to be placed before the Parliament /State Legislature. The Law Ministry has also further opined that the guidelines are not bad in law.

I hope this will now settle the issue and the Electricity Regulatory Commissions will extent full cooperation to Audit in performance of its statutory obligations.

Yours sincerely,
Sd/-
(M.S. Shekhawat)

Shri A.K. Basu
Chairman,
Central Electricity Regulatory Commission,
6th Floor, Core-3, Scope Complex,
7 Industrial Area, Lodhi Road,
New Delhi-110003

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Date: 22.1.2000

N.D. TEWARI,
Chairman, Public Accounts Committee
Dear Prime Minister

We have recently seen a spate of newspaper reports giving disturbing message that the Telecom, Regulatory Authority of India (TRAI) Act is being amended by an Ordinance under issue shortly. It is also reported that the Comptroller and Auditor General would not have auditorial jurisdiction on TRAI except for the insignificant area of the expenditure incurred by TRAI in the pay and allowances, etc.

2.The present TRAI Act empowers C&AG to audit all activities and functions of TRAI as in the case of any Government Department. Primarily, the TRAI deals with tariff setting and thereby ensures receipts for the Consolidated Fund of India and also adjudicates the disputes between parties. While it is understandable that adjudicatory decisions of the Authority need not be brought under the purview of C&AG's Audit and Public Accounts Committee, there is no justification for the tariff fixing, revenue sharing, conditions of licensing , etc. prescribed under section 11 of the Act being excluded from the purview of Audit and the PAC. Fixing tariff and other attendant functions result in receipt to Government and therefore, exclusion of these activities from accountability to the Parliament and PAC on the basis of C&AG's Audit is unconstitutional. This would also tantamount to negation of the powers and duties of C&AG as prescribed in the Constitution.

3.Creation of an appellate tribunal and provision to appeal to Supreme Court on these matters of revenue cannot take away the powers of C&AG to audit them and report to Parliament and thePAC. These functions are actually executive in nature and were being done by the Government all along. By entrusting to the Authority, these functions do not become quasi-judicial and such a contrived definition cannot be the basis for doing away with the Audit of C&AG and accountability to the Parliament. There exist Appellate Authorities and Tribunals in the country for Income Tax, Customs, Central Excise, Sales Tax and other receipts and these receipt collections are also justiciable in the High Courts and Supreme Court. Such provisions for appeals have not made the C&AGs audit, and accountability to the Parliament and PAC vanish in these cases.

4. I would also like to point out that in our country, as in other developing countries, cross subsidy between long distance and local calls, expansion of telephone facility to villages and non-revenue earning areas and increasing the tele density are matters of public policy and the Government must have the last word in such matters. Such decisions will affect the tariff, revenue sharing, terms of contract, inter linking with the country's major telecom operators, namely, Department of Telecommunications, Mahanagar Telephone Nigam Limited (MTNL) and Videsh Sanchar Nigam Limited (VSNL). As long as Government is the decision maker for public interest, I do not see how it can be argued that C&AG, PAC and Parliament should not be in the picture. Even with all the hopeful expansion in private sector, DoT would continue to

be the dominant service provider up to about 80 percent for the coming 10 years. When such is the case, it is quite improper to leave TRAI from C&AG's audit and Parliamentary scrutiny because they would decide on the revenues of the Government that would have impact on the Government telecom policies that aim to bring the facility to common man. Further the decisions of TRAI will also have far reaching impact on the functioning of DoT, MTNL and VSNL.

5. I understand that in many of the developing countries and even some European countries, the functions that are entrusted to the Authority vest with the Government or remain under governmental control. We are no different and an attempt to be so would mean taking decisions well before their time. Dyarchy, through part time government members would hardly be sufficient redressal of these concerns.

6.This matter was discussed by the PAC on 21 January 2000 when examining the Audit Report on DoT and the members were quite exercised about the proposed Ordinance contemplating to do away with existing audit of C&AG and accountability to PAC and the Parliament. Mere audit of the Budget of the Authority as would be provided in the Ordinance does not mean anything, as mentioned above. I hope that it does not become a controversy and I am sure that with your commitment to Parliamentary democracy, you would take immediate steps to ensure the patently wrong directions being taken is set right so that TRAI remains as much accountable to Parliament through C&AG's audit as already provided for in the Act.

Yours
Sd/-

Shri Atal Bihari Vajpayee,
Prime Minister of India,
South Block,
New Delhi

LIST OF KEY EVENTS-SECTION 'B'

September 1992	PDAESM carried out first disinvestment audit.
September 1998	Headquarters decided that in future audit of disinvestment be done by DGACR being Principal Audit officer of the Ministry of Finance.
23 November 2000	C&AG wrote to Minister of disinvestment that audit of each disinvestment would be taken up as soon as Ministry was ready with documents. Inspection report will be issued but mention would be made in Audit Report of those cases only which merit inclusion therein.
15 December 2000	Audit of disinvestment was entrusted to PDAESM after formation of Department of Disinvestment as a nodal ministry for disinvestment in 1999.
10 December 2001	Landmark decision of Supreme Court on PIL filed on disinvestment of Government shares in BALCO (issues-disinvestment policy, worker's interest, transparency, reserve price and valuation, tribal land issue, PIL).
November 2002	A policy formulating broad approach to audit of disinvestment approved by C&AG.
May 2003	C&AG approved Guidelines for audit of Disinvestment.
31 August 2005	Issue of Guidelines for Audit of Disinvestment of Government shareholding in Public Sector Undertakings.

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V.K. SHUNGLU

No. 80-C&AG/2000
November 23, 2000.

Dear Minister,

I have received your D.O. letter No. PC/MOS/(P&P1/44(D)/2000 dated November 14, 2000 regarding the audit arrangements for the disinvestment cases.

Our normal procedure of audit for the Central Ministries is to conduct an inspection once in a year and send the Inspection Report to the Ministry. In case there are significant audit findings considered fit for being reported to the Parliament, then those cases are included in the Annual Audit Report issued by this office. Our Inspection Reports are issued only to the Ministry, and not released either to the Press or to the Parliament from our end.

In view of the concern you have expressed for transparency in disinvestment, our office would be prepared to take up the audit of each case as soon as your Ministry is ready with the documents. A separate Inspection Report will be issued in every case. Mention will be made in the Audit Report of these cases, only if they merit inclusion.

With regards,

Yours sincerely
Sd/-
(V.K. Shunglu)

Shri Arun Shourie,
Minister of State,
Planning,Statistics& Programme Implementation
Administrative Reforms & Public Grievances and
Disinvestment, Govt. of India,
Yojana Bhavan,
New Delhi

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No. 836-Rep (C)/Misc-2000 Disinvestment
Office of the Comptroller
And Auditor General of India,
New Delhi
Date: 15 December 2000

To
Shri H. Pradeep Rao,
Principal Director of AuditEconomic and Service Ministries

Sub.: Audit of Department of Disinvestment

Sir,

In supersession of the instructions contained in PD-RC's D.O. No. 814-Rep (C)/129-98 dated 23 September 1988, I am directed to state that consequent upon formation of Department of Disinvestment in the Government of India

in December 1999, the function of audit of disinvestment shall revert to the office of the Principal Director of Audit, Economic and Service Ministries, New Delhi, PDA-ESM will be the Principal Auditor of the Department of Disinvestment.

DGA-CR will transfer all files, papers and documents relating to audit of Department of Disinvestment to PDA-ESM.

Yours faithfully,
Sd-
Niranjan Pant
Principal Director (RC)

CC:
Director General of Audit, Central Revenues, New Delhi. He is requested to transfer all files, papers and documents relating to audit of the Department of Disinvestment to PDA-ESM.

Sd/-
Principal Director (RC)

LIST OF KEY EVENTS-SECTION 'C'

2002	C&AG designated RTI Mumbai as a Nodal Training Institute and Centre of Excellence for Environmental Auditing.
2004	RTI Mumbai developed Structured Training Module on Environmental Auditing.

GLOSSARY OF ABBREVIATIONS

BALCO	Bharat Aluminium Co. Ltd.
BHEL	Bharat Heavy Electrical Ltd.
BIFR	Board of Industrial Financial Restructuring
BRPL	Bongaigaon Refineries and Petrochemicals Limited
CBI	Central Bureau of Investigation
CCD	Cabinet Committee on Disinvestment
CERC	Central Electricity Regulatory Commission
CGS	Core Group of Secretaries
CMC	Computer Maintenance Corporation Ltd.
CPCL	Chennai Petroleum Corporation Limited
DOD	Department of Disinvestment
EMS	Environment Management Systems
HCI	Hotel Corporation of India
HTL	Hindustan Teleprinter Ltd.
HZL	Hindustan Zinc Ltd.
IBP	Indo Burma Petroleum Ltd.
IPCL	Indian Petrochemicals Corporation Ltd.
IRDA	Insurance Regulatory & Development Authority
ITDC	India Tourism Development Corporation
KRL	Kochi Refineries Limited
MFIL	Modern Food Industries Ltd.
NAV	Net Asset Value
NDA	National Democratic Alliance
NRA	Natural Research Accounting
PECV	Profit Earning Capacity Value
PPL	Paradeep Phosphates Ltd.
PSEs	Public Sector Enterprises
RTCs	Regional Training Centres
RTI	Regional Training Institute
SEBI	Securities and Exchange Board of India
SERCs	State Electricity Regulatory Commissions
STM	Structured Training Module
TRAI	Telecom Regulatory Authority of India
UTI	Unit Trust of India
VSNL	Videsh Sanchar Nigam Ltd.