UNIT 5 REGULATORY POLICIES AND FRAMEWORK

Structure

5.0 OBJECTIVES

After studying this Unit you should be able to

- describe tlie regulatory policies of the Government which constituted an important component of business environment in India till mid 1990;
- explain the nature of reformist policy package'initiated by tlie Government of India in July 1991;
- identify the significance of changes in Government regulation and control of business undertakings;
- outline the components of regulatory framework in India;
- explain the main features of tlie basic business laws in India; and
- describe the legal provisions aimed at controlling and preventing environmental pollution.

5.1 INTRODUCTION

You have learnt about tlie nature of planning, promotional, entrepreneurial, and regulatory role of tlie government and tlie fact that tlie regulatory policies of the government in any country constitute an important dimension of business environment. In India, different factors prompted tlie Government to play an active role in promoting and regulating the business activities at different times. In this unit, you will learn in detail about the regulatory policies pursued by the Government of India since Independence till 1990 and the changes that took place in the policy measures since 1991 when liberalisation ear began. You will also learn about the overall regulatory legal framework for the business, and the main features of basic business laws and environment protection laws.

5.2 GOVERNMENT REGULATORY POLICIES TILL 1990

The problems that confronted the Indian economy in 50's could be regarded as the starting point for severe government regulation of industry and trade. The economy suffered from several basic deficiencies of which the important ones were : (a) the vicious circle of poverty and low incomes with low levels of saving and investment perpetuating low levels of income, (b) near stagnation of social and economic indicators, and (c) little incentive for entrepreneurs to invest in industry. Naturally, it was felt that a structural transformation of tlie economy was the only remedy to ensure a high rate of growth and sustainable improvement in standard of living of the people. State intervention in tlie economy and well-coordinated state policies were considered necessary to bring about the essential structural changes in tlie system of production and distribution. For three and a half decades, from tlie 50's to mid-80's, the Indian economy was, therefore, steered by tlie Central and State governments through legal and administrative measures as a natural outcome of tlie policy of government intervention. The outlook that prevailed then was that government should ensure allocation of resources for development according to tlie planned priorities, and compensate for and correct 'market failures' causing inequalities and imbalances. The result was essentially a policy framework overruling marketing forces in tlie interest of equitable and balanced growth.

The regulatory policy measures which were instituted by the Government of India till the mid-80's included tlie following :

I A Comprehensive system of industrial licensing under Industries (Development and Regulation) Act, 1951, and control over capital issues under the Capital Issues (Control) Act, 1956;

2 Reservation of certain industries for development in the public sector, and certain industries in the small-sale sector;

3 Ceiling on expansion of capacity and creation of fresh capacity in the case of large industrial houses, dominant undertakings and inter-connected concerns under the Monopolies and Restrictive Trade Practices Act, 1969;

4 Licensing of imports with the basic ,objectives of import substitution and linking imports to available foreign exchange;

5 Control and regulation of foreign direct investment, import of technology, foreign collaboration and joint ventures;

6 State trading and public distribution of selected commodities;

7 Price control and rationing in specific product markets;

8 Regulation of priority sector credit and credit flow;

9 Fiscal measures including provision of differential taxes, exemptions and remissions under various direct and indirect tax laws; and

10 Regulation of securities markets under the securities Contracts (Regulation) Act, 1956.

Apart from the legal and administrative measures which were enforced by tlie Ministries and Government Departments, the regulatory system was operated through several institutional agencies as advisory /regulatory /quasi-judicial authorities as follows :

(a) The Planning Commission (an advisory body) to formulate development plans in consultation with central ministries and state governments;

(b) The Reserve Rank of India with statutory authority to regulate money and credit supply, commercial banking, and controlling foreign exchange operations;

(c) The MRTP Commission (constituted under the Monopolies and Restrictive Trade Practices Act) to investigate and regulate concentration of economic power, and monopolistic, restrictive and unfair trade practices;

(d) Bureau of Industrial Costs and Prices (an advisory body) to assist Government in the determination of fair prices and price fixation of industrial products; and

(e) Bureau of Public Enterprises to provide advisory management services to public sector undertakings, and assist ministries in project evaluation and implementation.

While the economic growth rate showed some positive results and stability in the 50's, an assessment in tlie 70's showed that tlie industrial growth rate had declined perceptibly since the mid-60's, the pressure of unemployment had increased, and per capita availability of essential consumer goods remained stagment. Moreover, rising prices, declining average real income growth, and poor performance of the public enterprises were disquieting,

With the above findings there was serious rethinking on the issues bearing on government regulatory policies. As a result, the industrial policy was revised comprehensively in July, 1980, and many perceptible changes were brought in April, 1982 and thereafter, mostly aimed at liberalisation and relaxation of controls. These included changes in policy with respect to expansion of industrial capacity, waiving the necessity of MRTP clearance in the case of several industries, and introducing liberal rules with regard to foreign direct investment, foreign collaboration and capital goods imports. These changes reflected a shift from discretionary, direct controls to fiscal, non-discretionary controls. On tlie whole, the policy changes offered greater scope for expansion of private enterprises. But this change in policy did not bring about the desired results. It was realised that a liberal import policy leading to higher imports was not accompanied by commensurate rise in exports inspite of several export promoting measures adopted at the same time, and tlie mounting deficits in the balance of trade could not be taken care of. Not only that, growing fiscal deficits and imbalance in external payments led to increased borrowings at home and abroad, and so also tlie mounting inflationary pressure. Moreover, with the emergence of an oligopolistic market structure, tlie era of shortages did not end nor did the restrained price increases. The policy changes led to the growth of industries producing elitist items and consumer durables, not wage goods. I-Iowever, the industrial production recovered appreciably during the 80's as compared with the latter half of the 60's and 70's. During 1981-85, the industrial growth rate was 6.4 per cent per annum, and it was 8.5 per cent per annum during 1985-90 as against 4 per cent per annum from mid-60's to tlie end of 70's.

Check Your **Progress A**

1 State briefly any three factors that led to Government intervention in the Indian economy during 50's.

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2 Mention four measures of direct, discretionary government regulations to which the business environment was subjected till mid-80's.

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5.3 REFORMIST POLICY PACKAGE OF JULY 1991

Apart from the various aspects of malfunctioning of the Indian economy, the immediate necessity of changing government policies in July 1991 is attributable to the problem of external payments. The crisis was actually building up during 1985-90 and became more serious following the Gulf crisis of 1990 when the oil import bill shot up. At the same time, workers' remittances from the Gulf area declined and there was additional burden of repatriating and rehabilitating NRIs from West Asia. All these resulted in an increase in the current account deficit to US $9.7 billion in 1990-91 from US $ 6.9 billion in 1989-90. India's foreign exchange reserves also reached the lowest level of US $ 1.2 billion in December 1990. At this stage, there were two problems to be tackled : (1) commercial borrowing was no longer possible due to downgrading of India by credit-rating agencies, and (2) rolling over of short-term credit became difficult since the amount of such credit touched US $ 5 billion. Under the circumstances, there was urgent need for identifying sources of 'exceptional financing', IMF assistance was sought in January 1991 under the Contingency Compensatory Financing Facility (CCFF). US $ 1.8 billion could be drawn under the scheme. In addition, a total of 46.91 tonnes of gold from the Reserve Bank stock was pledged abroad, which enabled the Reserve Bank of India to borrow $400 million to meet the liquidity for a period of one month at a lime. Even then, the crisis could not be averted. There was further drop in foreign exchange reserves to $ 1.1 billion, and default on servicing external debt was imminent. Assistance from IMF and World Bank could be obtained subject to the conditionality of adopting a "Stabilisation and Structural Adjustment Programme". Compliance with the conditionalities was a must. Hence, the reformist policy measures were initiated by the Government of India in July 1991.

The new policy package consisted of major decisions bearing on the system of industrial licensing, foreign investments and foreign technology agreements, public sector, small industries and trade policy reforms, The following changes in the regulatory policies of Government constituted the package of economic reforms.

1 Industrial licensing was abolished except for a short list of industries related to security and strategic concerns, social reasons, hazardous chemicals and overriding environmental considerations. At the same time, the threshold limits of **MRTP** companies and dominant undertakings were removed, followed by abolition of control over capital issues.

2 Direct foreign investment was permitted upto 51% equity in high priority industries without any bottleneck in the process of approval, subject to tlie condition that foreign equity covered the foreign exchange requirements for imported capital goods.

3 Automatic permission was to be given to foreign technology agreements in high priority industries. It was announced that Indian companies would be free to negotiate tlie terms of technology transfer with their foreign counterparts according to their own commercial judgement within specified parameters regarding payment of royalty etc.

4 The power sector, teleconi equipment manufacturing industry, basic telecom services, etc., reserved earlier for development in the public sector, were opened to private sector investment.

5 A major step in tlie process of trade policy reform was devaluation of tlie rupee by about 18% against the basket of major currencies (dollar, pound sterling, Deutsche Mark, Yen and Franc). Later, tlie rupee was made fully convertible at tlie market rate of exchange on current account.

6 The new policy o11 imports enhanced the list of items under Open General License (OGL) by announcing a negative list of imports. This list included a few prohibited items and canalized items. Gradually more items were removed from the negative list and some were shifted to special imports items (SIL) list.

7 India's commitment to stabilization and structural adjustment was followed by a programme of reduction of fiscal deficits and aggregate money supply, liberalization of regulations aimed at resource allocation based on market signals, and relaxation of restrictions on international flow of goods, services, technology and capital.

8 The policy of structural reforms also included Government's decision to invite foreign institutional investors (FIIs) to invest in all types of securities traded on the primary and secondary capital markets as well as those listed on the Over-the-Counter Exchange of India (OTCEI).

9 As a part of the policy of globalisation, Indian companies were allowed access to foreign capital markets by issuing GDRs (Global Depository Receipts), ADRs (American Depository Receipts) and Euro-Currency Convertible Bonds (ECCBs) for approved purposes.

10 Privatisation of public enterprises and disinvestments of government equity in selected public undertakings have been pursued by Government along with the policy of closing down noti-viable, loss-making public undertakings. These policy measures were expected to reduce the drain on public resources, improve tlie fiscal/budgetary position as well as imbibe professional management of public undertakings.

11 The policy with respect to small scale industries was announced by Government in August 1991 which consisted of a number of measures promoting the cause of SSIs in terms of market protection, financial assistance, fiscal incentives, etc. However, tlie reservation of products for exclusive manufacture in the small scale sector was marginally reduced, and the manufacture of ready-made garments was opened to large undertakings subject to an export obligation of 50% and investment limit of Rs.3 crore

12 Banking sector reforms were introduced to ensure healthy growth of the banking system and prudential regulation instead of micro-intervention over credit decisions. The Reserve Bank of India issued guidelines in April 1992 for income recognition, asset classification and provisioning and specified

capital adequacy norms. As recommended by the Narasimham Committee in 1991, policies were also adopted for deregulating lending rates and allowing greater flexibility in deposit rates of banks. Recognising the need for making banking services more competitive, it was decided to open up banking to the private sector. In January 1993, the Reserve bank issued guidelines for licensing new banks in tlie private sector with a minimum capital adequacy ratio of 10%.

13 Opening up insurance business to the private sector has been yet another policy measure adopted witli a view to making available long-term funds for infrastructure, introducing innovative products and improving the quality of customer service. In April 2000, tlie Insurance Regulatory and Development Authority (IRDA) was constituted under IRDA Act, 1999, with the primary functions of approval and grant of licenses to new insurance companies, regulating investment of funds, adjudication of disputes between insurers and intermediaries, and supervision of the Tariff Advisory Committee. Foreign companies are allowed to operate through joint venture arrangements with any Indian Company witli a shareholding not exceeding 26% of the paid up capital of the unsure. This was in line with international practice.

The essence of policy changes that have taken place since 1991 may be said to have been underlined by (a) liberalization and deregulation of controls over business and industry, (b) redefining the role of public sector and tlie government, and removal of restrictions on tlie flow of goods and services, capital and technology across the border. As a result, tlie business environment has tended to be more market oriented both at the national and regional levels. Earlier, it was a protected economy in which many undertakings were characterized by low productivity, inefficiency and low capacity utilization; and limits on industrial investment in the private sector did not permit creation of capacity required for deriving the economies of scale. Now, the policy changes have rendered industrial growth to be increasingly more dependent on market forces.

In the post-reform scenario, the Planning Commission is required to address tlie national objectives of poverty alleviation, population control, employment generation and balanced regional development in a holistic manner. In the context of India's federal polity, tlie Planning Commission is expected to evolve a shared vision of, and a shared commitment to, the objectives and development of strategy for government at all levels including tlie rural institutions and urban local bodies.

5.4 REGULATORY FRAMEWORK : AN OVERVIEW

The reformist policies have led to a shift from direct physical controls to indirect regulations including fiscal and monetary measures, changes in direct and indirect tax laws, interest rate structure and money supply. Tlie Foreign Exchange Regulation Act (FERA), 1973, with highly restrictive provisions as regards foreign exchange dealings, has been replaced by the Foreign Exchange Management Act (FEMA), 1999 which came into effect from January 1, 2000. The new Act has the primary objectives of facilitating external trade and payments, and promoting orderly development and maintenance of foreign exchange market.

Keeping in view the imperfections of a market economy, the Government has enacted the Competition Act, 2003 to ensure fair competition by prohibiting trade practices which may cause appreciable adverse effect on market conditions. The Act provides for the establishment of a quasi-judicial body, the Competition Commission of India

(CCI). With the CCI constituted and the rules and regulations framed, the MRTP Act, 1969, will be repealed, and the MRTP Commission dissoived. Under the Competition Act, anti-competitive agreements are prohibited, so are abuses of dominant position of an enterprise; and provisions have been made for the regulation of business combinations including acquisition, merger and amalgamation. (You will learn about the detailed provisions of the Act in Unit 7.)

Institutional agencies have also been set up to control the likely aberrations of market operations in particular segments. For example, the Telecom Regulatory Authority of India (TRAI) which started functioning from February 1997, has been established as a regulatory authority in the telecom sector so as to provide a level playing field for operators and service providers. The growth and development of the telecom sector is sought to be carried out according to the provisions implicit in the National Telecom Policy formulated by the Government of India. Another example is that of Insurance Regulatory and Development Authority (IRDA) constituted in 2000 for approval and grant of licenses to new insurance companies and regulation of investment of their funds. In the power sector, reforms have been initiated by restructuring the State Electricity Boards and formation of State Electricity Regulatory Commissions (SERCs) in different states. The Central Electricity Regulatory Commission formed under the Electricity Regulatory Commission Act, 1998, is empowered to lay down terms and conditions for determination of tariff.

The regulatory aspects bearing on business environment in the emerging context may be thus said to consist of:

1 Government policies regulating the macro-economic environment, product markets, sesvicc sector, rural development, public sector reforms, international trade and foreign investment. Liberalisation, Privatisation and globalisation have underlined the policy framework.

2 Institutional agencies regulating economic and business activities at the national and sectoral level. These agencies have been set up either by Parliament or State Assemblies or under provisions of the legislative enactments.

3 Laws regulating business activities in gcncral, in specific areas, and with respect to certain operations. There arc a large number of such laws aimed at governing industry, trade and commerce,

The government policies and institutional agencies regulating various business activities in India have already been enumerated. More details of these aspects shall be taken up in Block 4 which deals with economic environment. As for the laws regulating the business activities, the important ones are as follows

(a) **Basic Business Laws** : (i) Indian Contract Act, 1872; (ii) Indian Sale of Goods Act, 1930; (iii) Partnership Act, 1932; (iv) Negotiable Instruments Act, 1940; and (v) Arbitration Act, 1940.

(b) **Environment Protection Laws** : (i) Water (Prevention and Control of Pollution) Act, 1974; (ii) Air (Prevention and Control of Pollution) Act, 1981; and (iii) Environment Protection Act, 1986.

(c) **Corporate Laws** : (i) Companies Act, 1956; (ii) Sick Industrial Companies (Special Provisions) Act, (SICA) 1985; (iii) Industrial (Development and Regulation) Act, 1951; (iv) Monopolies and Restrictive Trade Practices Act, 1969; (v) Competition Act, 2002; (vi) Consumer Protection Act, 1986; and (vii) Essential Commodities Act 1955; 2002

(d) **Securities Regulatory Laws** : (i) Securities Contract (Regulation) Act, 1956; and (ii) Securities Exchange Board of India (SEBI) Act, 1992.

(e) Labour **Laws :** (i) Factories Act, 1948; (ii) Payment of Wages Act, 1936; (iii) Payrnent of Bonus Act, 1965; (iv) Workmen's Compensation Act. (v) Payment of Gratuity Act, 1972; (vi) Employees Provident Fund and Miscellaneous Provisions Act, 1952; (vii) Trade Unions Act, 1926; (viii) Industrial Disputes Act, 1947,

(f) **Miscellaneous Regulatory Laws** : (i) Standards of Weights and Measures Act, 1956; (ii) Patents Act, 1970; (iii) Trade Marks Act, 1999; (iv) Foreign Exchange Management Act, 1999; (v) Trade and Commercial Commodities Marketing Act, 1959; (vi) Agricultural Product (Grading and Marketing) Act, 1959; and those relating to specific industries like pharmaceuticals, banking, insurance, electricity supply, carriage of goods, etc.

We shall have a brief idea about the basic business laws and environment protection laws in tlie sections to follow. The corporate laws (including an outline of Companies Act) shall be discussed in Units 6 and 7, and the labour laws in Unit 7. The provisions of laws relating to securities regulation, foreign exchange management, etc, shall be enumerated at the appropriate places.

Check Your Progress B

1 What were the major decisions taken in 1991-92 regarding foreign direct investment and foreign technology agreement ?

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2 Name the institutional agencies set up with a view to controlling the imperfections of a market economy or its aberrations.

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3 What arc the main components of the regulatory framework which is emerging in India after 1991 ?

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4 State which of the following statements are True or False.

(a) The reformist policy measures were initiated by the Government of India in July 1991.

(b) Industrial licensing was abolished for all industries,

(c) Tlie policy of structural reforms included government's decision to invite foreign institutional investors to invest in shares and debentures through secondary market also.

(d) The main function assigned to Insurance Regulatory and Development Authority is the adjudication of disputes between insurers and intermediaries

(e) No policy derisions have been taken for deregulating lending rates and allowing flexibility in deposit rates of banks.

(f) Policy changes since 1991 have rendered industrial growth to be increasingly dependent on market forces.

5.5 BASIC BUSINESS LAWS

In the context of our discussion bearing on business environment it may be useful to have an overview of the basic business laws on a selective basis as there are a large number of such laws enacted with different objectives, some relevant to business in general and some relevant to particular segments of business. Let us examine tlie nature and provisions of some of these laws.

The Law of Contracts : It is well known that most business transactions are based on contracts, that is, agreements which can be enforced in a court of law. The law of contracts is embodied in the Indian Contract Act, 1872 which deals with the general principles relating to the formation of a contract and specifics the conditions to be fulfilled for the contract to become enforceable at law. It lays down the various modes by which a contract can be discharged and specifies remedies in case of its breach. The Act also deals with certain special types of contracts like contracts of Indemnity, guarantee, bailment ancl pledge, ancl agency in respect of which it highlights their peculiarities and the right and duties of tlie parties involved.

Sale of Goods Act, 1930 : The law relating lo sale of goods was originally a part of tlie Indian Contract Act, which was repealed and re-enacted as separate legislation in 1930. The Sale of Goods Act includes provisions relating to tlie contracts of all kinds of movable property, other than actionable claims and money. The definition of goods include stocks and shares as well as tlie standing crops.

Apart from express stipulations (conditions and/or warranties) which tlie parties may have agreed upon at the time of entering into the contract. The Act has specified certain implied conclitions and warranties which are deemed to be incorporated in every contract of sale of goods. There are also provisions for determining the exact moment when the property in the goods may be taken to have passed from tlie seller to the buyer, and tlie rules regarding delivery ancl payment, and the rights of an unpaid seller.

Indian Partnership Act, 1932 : Like tlie law relating to sale of goods, the law of partnership also formed a part of the Indian Contract Act till 1932 when it was enacted separately as the Indian Partnership Act. Partnership is defined as relations between persons who agreed to share the profits of a business carried on by all or any of them acting for all. Collectively the partners may be known as a 'firm' and run the business under a 'firm name', but the firm is not a separate legal entity and has no legal existence apart from its partners.

The Act has, among other things, provided for the rights and duties of partners which are applicable subject to the partnership contract. It is clearly laid down that every partner is liable jointly with all other partners, and also severally, for all the acts of the firm, and his liability is unlimited. As indicated in the Partnership Act, the dissolution of a partnership firm is possible in various ways like mutual agreement, by notice of dissolution (in the case of partnership at will), by operation of law when its business become illegal or when all partners but one become insolvent. The Act also lays down tlie niode of settlement of accounts between partners in the event of dissolution of the firm.

Negotiable **Instruments** Act, **1981 :** Negotiable instruments such as promissory notes, bills of exchange and cheques are widely used in business transactions as these are not only transferable by endorsement and/or delivery, but the holder-in-due-course (one who receives the instrument for value and without notice of any defect in the title of the transferor) acquires a valid title even if the previous holder's title is found to be defective.

The Act has defined a cheque as a bill of exchange drawn on a specified banker and payable only on demand. It has provisions relating to tlie effect of crossing of cheques, marking and alteration of cheques, duties and responsibilities of a paying banker, conditions governing 'payment in due course', essentials of endorsement, protection of a collecting banker, and duties and responsibilities of the collecting banker.

As for tlie bills of exchange and promissory notes which form a large part of banking transactions, the Act has defined inland and foreign bills, ambiguous and inchoate instruments, instruments payable on demand, holder in due course, drawee in case of need, etc. Provisions also relate to acceptance, payment, presentment and dishonour of bills, negotiation and endorsement, noting and protesting, discharge of parties, and compensation payable to tlie holder or endorser in the event of dislionour. Most of these provisions are applicable notionally to both bills of exchange and promissory notes but also to cheques.

Arbitration Act, **1940 :** An arbitration agreement means an agreement in writing to submit a present dispute or future differences to arbitration, whether or not an arbitrator is named therein. The Act codifies tlie principles of law applicable to all kinds of arbitration whether made with or without intervention of a court, and specifies matters which can or cannot, be referred to arbitration. It also lays down the rules regarding appointment and removal of arbitrators, their duties and powers, and the legal position of award made by them.

5.6 ENVIRONMENT PROTECTION LAWS

Environmental protection refers to the protection of natural and physical setting against pollution caused by emission and discharge of toxic and poisonous gases, effluents and solid wastes harmful to life. In the specific context of business environment, the legal enactments are aimed at prevention and control of air, water and land pollution which is largely attributable to the growth and expansion of manufacturing industries and modern transport systems. The primary sources of air pollution are discharge of fly ash and relapse of carbon dioxide gas through emission of smoke from thermal power plants, factories and industrial establishments. Another source is tlie release of pollutants from automobile exhaust which include toxic gases and particulate poisonous matter. Like factory chimneys, steam locomotives also cause air pollution. Water pollution is mainly caused by toxic effluents from industries flowing into rivers, takes and coastal waters, The effluentsare liquid wastes discliarged by industries' producing chemicals, petro-chemicals, pesticides, fertilizers, pharmaceuticals, textiles, sugar, paper pulp dyes and paints as well as distilleries and breweries, and oil refineries. Land pollution is the result of solid wastes in the form of blast furnace slag of iron and steel industry, and smelters of copper, zinc, lead and aluminum.

It is well known that atmospheric pollution is a serious health hazard for people and is destructive of vegetation. However, legislation for the protection and improvement of environment was taken up seriously in the wake of the United Nations Conference on Human Environment held at Stockholm in June 1972, in which India had also participated. The Water (Prevention and Control of Pollution) Act, 1974 was the earliest legislation of its kind. Tliis was followed by the Air (Prevention and Control of Pollution) Act, 1981, and then tlie Environment (Protection) Act, 1986.

Water (Prevention and Control of Pollution) Act, **1974** : Tliis Act is aimed at prevention and control of water pollution and the maintenance and restoration of the wholesomeness of water. The Act covers land pollution also. It provided for the establishment of a Central Pollution Control Board and State level Pollution Control Boards to exercise administrative powers and carry out the functions relating to the prevention of water defilement caused by fluents from industry, operations or processes. Joint Boards can also be set up by two or more governments ofcontiguous stales, or by tlie Central Government in respect of one or more Union Territories and one or more governments of states contiguous to such Union 'Territories. It is provided under Section *25* that without the previous permission of tlie State Board, no person can establish any industry, operation or process or any treatment and disposal system likely to discliarge sewagc or effluents into a stream, or sewer, or land. On any application for consent, tlie State Board my grant permission subject to such conditions as necessary including a standard regarding tlie discliarge of pollutant. For existing cases of discharge of effluents, applications for permission was to be made within a period of three months of constitution of the Board. Under Section 24, causing or permitting any poisonous or polluting matter to any stream or well by any person is prohibited.

Air (Prevention **and** Control of Pollution) Act, 1981 : Tliis Act is aimed at prevention and control of air pollution. It has been amended to cover noise pollution as well. Tliis legislation contains similar provisions as in the Water (Prevention and Control) Act of 1974 regarding establishment of Pollution Control Boards at the Centre and State levels. The Act also requires that setting up any industry which discharges or emits any poisonous, noxious or polluting matter or gas, tlie entrepreneurs have to obtain permission of the State Pollution Control Board and comply with standards set by the Board.

Environment (Protection) Act, **1986** : This Act is a comprehensive legislation which covers not only land, water, air and noise pollution but also use of hazardous substance, that is, any substance or preparation which by reason of its chemical or pliysic-chemical properties or handling is liable to cause harm to human beings or other living creatures, plants, micro-organism, property or the environment. It has empowered the Central Government to take whatever action may be necessary or adopt such measures as are deemed necessary or expedient for protecting and improving the quality of environment, and controlling and abating environmental pollution. Action may be taken for non-compliance with tlze provisions of the Act and penalties imposed for violation.

Government is empowered to issue directions regarding the standards of emission or discharge of pollutants, and prescribe tlie procedures and safeguards to be adopted for handling hazardous substances. Any contravention of, and failure to comply with, the provisions of the Act and the rules, orders and directions is punishable with imprisonment or fine or both for the offender. Imprisonment may be for a tcrm extending upto five years and the fine ordered may bc upto Rs. One lakh. For every day the failure or contravention continues, additional fine payable may be upto Rs. 5,000.

In exercise of the powers conferred by tlie Act, tlie Central Government has framed detailed rules for implementation of tlie provisions of tlie Act. Under the Environment (Protection) Rules, standards for emission or discharge of environmental pollutants have been specified in the schedule, although it is also laid down tliat more stringent standards may be specified by the Central and State Pollution Control Boards. Among other things, the rules have also laid down tlie factors that the Central Government may take into consideration as regards prohibition or restriction on the location of industries and the carrying on of processes and operations in different areas. Another set of rules have been framed, viz., Hazardous Wastes (Management and I-Iandling) Rules, 1989, which, among other things, liave specified the hazardous wastes in a schedule, with the provision tliat the rules shall not apply to (a) waste water and exhaust gases covered under the Acts of 1974 and 1981; (b) wastes arising out of tlie operation from ships beyond five kilometers as covered under the Merchant Shipping Act, 1958; and (c) radio active wastes as covered under tlie Atomic Energy Act, 1962.

Apart from specifying the standards of emission or discharge of pollutants under tlie rules form manufacturing processes and operations, tlie Government has also laid down emission norms for automobiles under the Motor Vehicles Rules, 1989 to control and reduce air pollution in metropolitan cities caused by vehicular exhaust fumes. The norms were required to be enforced by tlie State Transport Directorates.

Check Your Progress C

1 In column A below are listed certain pollutants and in column B are given the sources or causes thereof. Match the items under columns A and B.

Column A	Column B
(a) Toxic gases	(i) Pesticide factory
(b) Particulate matter	(ii) Use of power driven machines
(c) Poisonous effluents	(iii) Blast Furnace
(d) Solid wastes	(iv) Thermal power plant

2 State briefly the three main provisions of tlie Water (Prevention and Control of pollution) Act, 1974.

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3 State briefly the powers conferred by the Environment (Protection) Act, 1986 on the Central Government.

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4 Name tlie law applicable to the following :

(a) Promissory note

(b) Contract of agency

(c) Agreement to sell

(d) Dissolution of a partnership firm

5.7 LET US SUM UP

From tlie 50's to tlie mid-80's tlie Indian economy was essentially steered by tlie Central and State Government through legal and administrative measures of control as a natural outcome of tlie then Government's policy. It was essentially a policy framework overruling market forces comprising a system of industrial licensing, control of capital issues, ceiling on expansion of industrial capacity, reservation of certain industries for the public sector and small-scale sector, licensing of imports, regulation of reign direct investment, import of technology, etc. However, an assessment in tlie 70's led to a serious rethinking and when the industrial policy was revised comprehensively in July, 1980 and many perceptible changes were made in April, 1982 and thereafter which were aimed at relaxation of controls. Even then, growing fiscal deficits 'and imbalance in external payments led to increased borrowings at home and abroad, as well as mounting inflationary pressure.

By July 1991 there was a crisis situation following the Gulf crisis of 1990 when the oil import bill shot up. Inspite of financial assistance from the IMF and borrowings against pledging of gold abroad, there was further drop in foreign exchange reserves, and default on servicing external debt was imminent. Hence, drastic reformist policy measures were initiated by tlie Government. of India introducing a 'Stabilisation and Structural Adjustment Programme'. The Changes in the regulatory policies constituting tlie package of economic reforms included : (i) abolition of tlie system of industrial licensing except for a short list, (ii) permitting foreign direct investment upto 51% equity in high priority industries, (iii) automatic approval of foreign technology agreements, (iv) opening up industries earlier reserved for tlie public sector to private sector investment, (v) devaluation of the rupee followed by making the rupee fully convertible at the market rate of exchange on current account, (vi) liberalizing imports restrictions and relaxation of restrictions of international flow of goods, services, technology and capital, (vii) Inviting foreign institutional investors (FIIs) to invest in securities traded on the primary and secondary capital markets, (viii) privatisation of public enterprises and disinvestments of government equity in selected public undertaltings, (ix) promoting the cause of small scale industries through equity participation by other industrial undertakings, (x) deregulating lending rates of banks and allowing greater flexibility in their deposit rates and (xi) opening up insurance business to the private sector.

The essence of policy changes since 1991 may be said to have been underlined by market orientation of the business environment and a shift from direct physical controls lo indirect regulations including fiscal and monetary measures, changes in the direct and indirect tax laws, and interest rate structure and money supply. Keeping in view the imperfections of a market economy, tlie Government decided to repeal the MRTP Act, and replace it by the Competition Act 2002 to ensure fair competition and prohibit unfair trade practices. A few institutional agencies were also set up to regulate the abuse of market operations in particular segments.

Apart from government policies and institutional agencies, tlie regulatory framework also consists of various laws regulating the business activities in general and with respect to certain areas of operation. These include the basic business laws, environment protection laws, corporate laws, labour laws and a few other legal enactments.

The basic business laws governing business activities in general are (a) Indian Contract Act, 1872, which deals with tlie general principles relating to the formation and discharge of contracts, and contains provisions relating to certain special types of contracts like contracts of indemnity and guarantee, bailment and pledge, and agency; (b) Sale of Goods Act, 1930, which includes provisions relating to tlie contracts for sale of all kinds of movable property, other than actionable claims and money; (c) Indian Partnership Act, 1932, which covers the law relating to business relations among partner's subject to the partnership contract, and provides for the rules relating to partner's liability to third parties, the modes of dissolution of the partnership firm and final settlement of accounts among the partners; (d) Negotiable Instruments Act, 1881, which deals with the nature and effect on parties to three types of instruments, viz., promissory notes, bills of exchange and cheques, and (e) Arbitration Act, 1940, which codifies tlie principles of law applicable to all kinds of arbitration and lays down rules for the appointment and removal of arbitrators, and tlie position of award made by them. However, bank notes drafts, share warrants, bearer debentures dividend warrants, scripts and treasury bills are also recognised as negotiable instruments by usage.

The legal enactments aimed at prevention and control of air, water and land pollution comprise of three laws : (i) Water (Prevention and Control of Pollution) Act, 1974, (ii) Air (Prevention and Control of Pollution) Act, 1981, and (iii) Environment (Protection)Act, 1986. The Water (P&CP) Act of 1974 provided for the establishment of a Central Pollution Control Board and State level Pollution Control Boards to exercise administrative powers and carry out the functions relating to the prevention of water defilement caused by effluents from industry, operations or processes. The Air (P&CP) Act of 1981 covers noise pollution as well, and contains similar provisions as *in* the Water (P&CP) Act of 1974 regarding establishment of Pollution Control Boards at tlie Centre and State levels. The Environment (Protection) Act of 1986 is a comprehensive legislation which covers not only land, water, air and noise pollution but also other aspects like the use of hazardous substances. It has empowered the Central Government to take whatever action may be necessary for purposes of protecting and improving the quality of environment as well as preventing, controlling and abating environmental pollution. Tlie Governnient has also laid down emission norms for automobiles under the Motor Vehicles Rules, 1949, to control and reduce air pollution caused by vehicular exhaust fumes.

5.8 KEY WORDS

Capital Adequacy Ratio : Ratio of total capital funds to rist weighted assets.

C. R. R. (Cash Reserve Ratio) : Percentage of time and demand deposits required to be held as reserve with the RBI by commercial banks in cash.

Disinvestment : Reducing government equity holding in public enterprises.

Dominant Undertakings : The undertakings which controlled at least one fourth of production or market of a product and had assets of at least Rs. 3 crore.

MRTP Company : A single large undertaking or a group of interconnected undertakings (a large house) which had assets of at least Rs. 100 crore.

Oligopolistic Market Structure : A situation of having few competitors (more than two) in a given industry.

OTCEI (Over the Counter Exchange of **India)** : Stock exchange with on the line trade facility throughout India where securities of companies not having an issued capital of more than Rs. 25 crore are traded.

Privatisation : The process of transfer of ownership and management control of public enterprises to private parties.

S.L.R. (Statutory Liquidity Ratio) : Percentage of time and demand deposits required to be held as liquid assets by commercial banks.

5.9 ANSWERS TO CHECK YOUR PROGRESS

B 2 Institutional agencies set up after 1991 include (i) Telecom Regulatory Authority of India (TRAI); (ii) Insurance Regulatory and Development Authority (IRDA); (iii) State Electricity Regulatory Commissions (SERCs); and (iv) The Central Electricity Regulatory Commission;

3 The components of the regulatory framework consist of government policies (ii) institutional agencies, and (iii) laws regulating economic and business activities

4 (a) True (b) False (c) True
(d) False (e) False (f) True

C 1 (a) and (i ii) (b) and (i) (c) and (iv) (d) and (ii)

4 (a) Negotiable Instrument Act
(b) Indian Contract Act
(c) Sale of Goods Act
(d) Indian Partnership Act

5.10 TERMINAL QUESTIONS

1 What were the regulatory policy measures prevalent till the mid-80's ? Explain briefly.

2 Why did it become necessary for the Government of India to change its regulatory polices in 1980 and again in 1991? Discuss.

3 What measures did the Government of India initiate while introducing the stabilisation and structural adjustment programme? Elucidate the nature of measures adopted.

4 Explain, with justification, the relaxation of Government controls over foreign direct investment and technology imports.

5 Outline the legal regulatory framework in India, and enumerate the main provisions of the basic business laws.

6 Why were legislative enactments necessary for environmental protection ? Discuss the important provisions of the Environment (Protection) Act, 1986.

7 What are the functions of Pollution Control Boards set up under law ? What are the penalties likely to be invoked for contravention of, and failure to comply with, the provisions of the Environment (Protection) Act, 1986 and the rules framed thereunder ?

Note : These questions will help you to understand the unit better. Try to write answers for them, but do not submit your answers to the university for assessment. These are for your practice only.