

Chapter-I: Introduction and Objectives of the Study Agriculture Sector

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I - Introduction

1.1 The term 'Agriculture' as per Webster's New International Dictionary refer to "the art or science of cultivating the ground, including rearing and management of livestock, husbandry farming and also including in its broad sence farming, horticulture, forestry, cheese making etc. The term '**agriculture**' is defined broadly and differently under various laws¹, perhaps, based on the purpose and objective of respective Acts¹. '**Agricultural Operations**' includes animal husbandry, dairy farming, pisciculture and poultry farming². Similarly '**Agricultural Produce**' includes all produce of the agriculture or horticulture and all articles of food or drink wholly or partly manufactured from any such produce and fleeces and the skins of animals³. The term Agriculture produce is also defined broadly and differently under various Acts⁴.

1.2 The term '**Agriculture purpose**' refers to tilling and cultivation for purposes of raising crops⁵. A person making his living by agriculture is called an **agriculturist**⁶. The term '**competition**' is defined as "striving against each other for settling something desired or doing something in the best manner possible, a trial of ability"⁷

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¹ (i) Urban Land (Ceiling And Regulation Act, 1976 (33 of 1976), Sec.2 (o) (ii) explanation (A), (ii) National Bank for Agriculture and Rural Development, 1981 (61 of 1981), Sec.2 (a), (iii) Central Agricultural University Act, 1992 (40 of 1992, Sec.2 (c)

² The State Agricultural Credit Corporation Act (60 of 1968), 1968, Sec.2 (b)

³ The Agricultural Produce (Grading & Marking) Act (1 of 1937), 1937, Sec.2 (a)

⁴ To name few: (i) Warehousing Corporation Act, (58 of 1962), Sec.2 (a); (ii) National Co-operative Development Corporation Act,1962 (26 of 1982), Sec.2 (a); (iii) The APMC Acts passed by various states eg. M.P Krishi Upaj Mandi Adhinigam, 1972, Sec.2 (1) (a)

⁵ P. Ramanatha Aiyar, Concise Law Dictionary, Third Edition, Reprint 2009

⁶ The civil Procedure code, 1908 (5 of 1908) §.60 (1) (b).

⁷ Indian Trusts Act (2 of 1882 sec.15 i ll (d)

1.3 From the above, it is clear and evident that the components and coverage of the (Indian) agriculture sector is not only wide and complex but also difficult to analyse and understand the contours of this sector.

II- Agriculture: Global Concern Perspective:

Millennium Development Goals:

1.4 The Millennium Development Goals (MDG) for agriculture sector stipulated, inter-alia, two major targets i.e. the proportion of people whose income is less than one dollar (i.e. around Indian Rupees 50) a day and the proportion of people who suffer from hunger, needs to be reduced by half between 1990 and 2015⁸. The said two MDGs are very relevant and important for India keeping in view nearly 60 percent of its population depend on agriculture for their livelihood.

1.5 The World Bank Report on Agriculture and achieving the MDGs⁹ noted that “Current trade barriers and subsidies are high for Agriculture. Successful WTO Agricultural Trade Negotiation that lower protection and subsidies could boost progress towards MDGs”.

1.6 There is growing agricultural trade among developing countries, but these countries also retain substantial trade barriers on agricultural products. Developing country governments (and civil society organizations) that are largely united in seeking lower agricultural subsidies and protection in the developed countries have been divided concerning what to do about the agricultural trade barriers in developing countries¹⁰.

1.7 The said report urged that the government agencies in developing countries need urgently to revisit the legal, regulatory, political, and institutional framework in the agriculture, research, extension and industrial sectors¹¹.

1.8 The World Food Summit, 2008 in its Declaration¹² affirmed the need to minimize the use of restrictive measures that could increase volatility of international prices with a view to ensure

⁸ Millennium Development Goals for Agriculture

⁹ Agriculture and achieving the Millennium Development Goals, chapter 4 page 49 Agriculture and Rural Development report, the world bank Washington D.C. USA

¹⁰ Ibid p52

¹¹ Ibid p 67

¹² World Summit, 2008 (final) Declaration of the High level Conference on World Food Security. The Challenges of climate change and bio energy

that food, agricultural trade and overall trade policies are conducive to fostering food security for all.

1.9 The Declaration of the said summit as a Medium and Long Term Measure, further encouraged¹³ the international community to continue its efforts in liberalizing international trade in agriculture by reducing trade barriers and market distorting policies. Addressing these measures will give farmers, particularly in developing countries, new opportunities to sell their products on world markets and support their efforts to increase productivity and production, observed the said Summit.

1.10 The World Development Report 2008 with the primary focus on “Agriculture for Development¹⁴ discussed, inter-alia the crucial role of governance in supporting the main elements of agriculture –for-development agendas¹⁵. As per this report, regulation has to strike an appropriate balance, among different interest groups, avoiding both over regulation and under-regulation, especially if there are risks and uncertainties- for example, with a new technology regulatory agencies need reform to meet this challenge and avoid political and special interest capture.¹⁶ The reduction of barriers and transaction costs in international trade needs clear rules of the game that regulate a wide variety of public policies set at the national level, including sanitary and phytosanitary rules and grades and standards for specific products.¹⁷

1.11 The World Bank, very recently advocated the linking of farmers to markets and strengthen value chains¹⁸. The World Bank aimed to provide additional support to at least 15 countries to better link farmers to markets, improve their competitiveness and continue with global efforts to improve trade and support improved regional trade¹⁹. Better link farmers to markets through targeted investments in market places, rural roads, telecommunication (market information), and

¹³ Ibid p 3

¹⁴ Agriculture for Development World Development Report, 2008

¹⁵ Ibid

¹⁶ Ibid p 254

¹⁷ Ibid p 260

¹⁸ Implementing Agriculture for Development, World Bank Group, Agriculture Action Plan, 2010-12, July, 2009.

¹⁹ Ibid

electrification for agri-business and scaling up business models that better enable small holder farmers to compete in growing higher value markets.²⁰

1.12 Last but not the least, it is globally recognised that lack of competition in the market place is having seriously negative social effects on agricultural producers, the most vulnerable are the poorly organized, resource poor farmers in developing nations.²¹ The establishment of informational competition policy in the form of multi-lateral rules on restrictive business practices is considered one of the approach to address the imbalance in trade relationship²².

The Indian Agriculture Sector

1.13 The Indian agriculture sector gained the attention of policy makers continuously which are evident from the policy formulations introduced through Union Budgets over several decades. Maintaining this tradition, a four-pronged strategy, covering (i) agricultural production, (ii) reduction in wastage of produce, (iii) credit support to farmers and (iv) a thrust to the food processing sector, was introduced in the Union Budget, 2010-11.²³ The central government, after realising the fact that the said initiatives started showing results, shifted the focus to other vital issues i.e. removal of bottlenecks for fruits and vegetables, milk, meat, poultry and fish in the Union Budget for the year, 2011-12.²⁴

1.14 The Budget speech 2011-12 of the Union Finance Minister, had also contained the following three important policy formulations which had direct bearing on the elements of completion in Agriculture Sector (i) The grant of interest subvention concession to those farmers

²⁰ Ibid

²¹ International Assessment of Agricultural Knowledge Science And Technology For Development, 2009, Global Report, Mdntyre Beverly etc. al. Washington D.C. USA

²² Ibid, for example, a potential model for the said approach in the French law that prohibits selling at a loss and “exclusively low process”. (Another policy option that is widely noted is the reintroduction of price bands as a means of cushioning the impact of world price instability. For example Chile’s free trade agreements with EU and Canada allowed it to keep its agricultural price band which was designed to stabilize import costs of agricultural staples (including wheat, sugar, oil) through adjustment to tariffs on such with the objective of allowing a fair rate of return to Chilean farmers even if they were competing with heavily subsidized US farmers. In contrast the US- Chile free Trade Agreement committed Chile to phase out its agricultural price band system. An international competition policy framework might also include creation of an independent UN agency to address some of the issues that UN Center for Transnational Corporations used to address).

²³ Finance Minister speech Union Budget, 2011-12

²⁴ Ibid

who repay their crop loans on time is enhanced to 3 per cent in the year 2011-12 (This concession made available under this scheme is extended to those farmers who avail crop loans from Public Sector Banks, Regional Rural Banks (RRBs) and Co-operative Banks but not to others.²⁵

(ii) Contribution of Rs. 10,000/- crore to National Bank for Agriculture and Rural Development (NABARD's) short term rural credit fund for 2011-12 (from the short fall in priority sector lending by Scheduled Commercial Banks) with a view to enable NABARD to refinance the short term crop loans of the co-operative credit institutions and RRBs at concessional rates²⁶ and

(iii) There is an urgent need for the state governments to review and enforce a reformed Agricultural Produce Marketing Acts owing to the fact that the governments regulated *mandis* some times prevent retailers from integrating their enterprises with the farmers²⁷.

1.15 The growth of agriculture and allied sectors continues to be a critical factor in the overall performance of the Indian Economy²⁸. The government of India is of the opinion that creation of more direct farm-to-fork supply chains in food items across the country would be crucial in incentivising the farmer with higher producer prices and at the same time would lower the prices of the end consumer²⁹. However, the ground level realities are altogether different. For example, the economic cost of food grain's to the Food Corporation of India (FCI) consists of three components i.e. (i) Minimum Support Price as the price paid to the farmers (ii) procurement incidentals (iii) the Cost of Distribution³⁰.

1.16 The Procurement Incidental costs are generally incurred by the farmers out of the Minimum Support Price received by them. The Distribution Cost is generally met out by the subsidy component injected by the government.

²⁵ Ibid para 63

²⁶ Ibid para 64

²⁷ Ibid para 69

²⁸ The Economic Survey, 2010-11 (India) Ministry of Finance, Government of India, New Delhi (para 1.20, para-9)

²⁹ Ibid para 1.22, p.10

³⁰ Ibid para 8.80, p. 211

1.17 The said cost of Procurement Incidentals for Rice for the year 2010-11 comes to 15.51³¹ per cent which means the farmer is made to incur additional at cost of 15.51 per cent in the process of selling his produce to FCI through regulated market or otherwise. Similarly, the government has to incur additional cost i.e @ 12.46 per cent towards Distribution Cost towards distribution of food grains to the final consumers³². The situation is still worse in the case of Wheat wherein the cost of Procurement Incidentals (14.57per cent) and Distribution Cost (16.12per cent) put together touched 30.69 per cent of the total economic cost of wheat³³

1.18 In the opinion of the government of India “the agriculture sector is vital for the food and nutritional security of the (any) Nation. The Sector remains the principal source of livelihood for more then 58 per cent of the population (India) though its contribution to the National GDP has declined to 14. 2 per cent (in the year 2010-11) due to high growth experienced in industries and services sectors. Compared to other countries, India faces a greater challenge, since with only 2.3 per cent share in world’s total land area; it has to ensure food security of its population which is about 17.5 per cent of the world population³⁴.

1.19 The Government of India, Department of Agriculture, in the recent past, had launched several major Flagship and Major programmes, a few of which are listed below³⁵:

- (i) Rastitriya Krishi Vakas Yojana (RKVY)
- (ii) Extention of Green Revolution to the Eastern States.
- (iii) Identification of 60,000 Pulses and Oil Seeds villages
- (iv) Saffron Mission in J.K
- (v) National Food Security Mission
- (vi) National Horticulture Mission including for North East and Himalayan States.
- (vii) National Mission on Micro irrigation
- (viii) Integrated scheme of oilseeds, pulses, oil palm and maize

³¹ Ibid at p. 211 calculated based on the table 8.17

³² Ibid at p. 211 calculated based on the table 8.17

³³ Ibid at p. 211 calculated based on the table 8.17

³⁴ Annual Report, 2010-11, Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, March, 2011

³⁵ ibid

Other Major Initiatives;

- (ix) National e-Governance Plan (NeGP-A)
- (x) Terminal Market Complex Scheme
- (xi) Modified National Agricultural Insurance scheme (MNAIS)
- (xii) National Seeds Mission
- (xiii) National Mission for sustainable Agriculture.
- (xiv) Rehabilitation and Reconstruction of Potentially Viable Sick Cooperatives.
- (xv) Interest subvention on loans provided by National Co-operative Development Corporation (NCDC) to Cooperatives
- (xvi) Minimum Support Price (revision)
- (xvii) Constitution (One Hundred and Eleventh) Amendment bill to empower Co-operatives
- (xviii) Amendment in Seeds Act, 1966
- (xix) Introduction of Pesticides Management bill 2008

1.20 As per a recent study³⁶ India's agriculture development, traditionally, was based on protected policy environment which included controls on market, pricing, trade, storage, and quantitative restriction on foreign trade.

1.21 The Economic Reforms introduced in India during 1990's did not include policy measures affecting agriculture sector in a big way despite policy changes in liberalising broader measures controlling agriculture trade, domestic regulations continued to exist restricting private entry and investment in this sector³⁷

1.22 Both the Central and State governments are in the process of liberalising regulatory regime to promote healthy competition in agricultural markets. There were about 222 legislative measures undertaken to regulate the functioning of agricultural markets (Acharya, 2006). Several of these acts have been repealed, lifted or consolidated. Still, the existing

³⁶ Facilitating efficient Agricultural Markets in India: An assessment of Competition and Regulation Reform Requirements

³⁷ ibid

regulations tend to suppress competition. A particular regulation may be necessary if such regulation is required to deliver efficient outcomes, when there is market failure. However, a comprehensive review of agricultural market regulations needs to be undertaken to assess whether it has achieved its intended objectives³⁸.

1.23 For the reason specified above, the present study is undertaken with following aim, focus and objectives.

Objectives of the Agriculture Sector Study.

- (i) To identify broadly or refer to the laws, rules, regulations orders, schemes etc enacted by Indian Parliament or State Legislatures connected with or related to agriculture sector.
- (ii) To identify and list provisions in different statutes, rules, policies and practices which limit competition or have potential to limit competition in agriculture sector.
- (iii) To critically review and analyse the relevant laws, rules, regulations and policies governing the agriculture sector with a primary objective to identify competition distorting elements contained therein.
- (iv) To provide (to the extent possible) illustrative examples of those laws, restrictive policies which either exert or have the potential to exert anti-competitive effects, and thus influence laws/ regulations / policy etc. concerned.
- (v) To highlight or suggest a practical approach (as far as possible) to promote, protect and ensure competition (wherever it is absent or missing) in the agriculture sector.
- (vi) To find out justifications for the barriers to entry permitted or allowed, if any, in the agricultural laws/policies.
- (vii) To recommend changes in laws, rules, regulations, orders, schemes and the implementation procedures to address the competition related issues.

³⁸ *ibid*

1.25 Limitations of the study

(i) The coverage of agriculture related subjects, issues, laws, rules, regulations orders, scheme etc. are wide and vast, hence, unable to do justice to the assigned task due to paucity of time and resources left at the disposal of the author expert.

(ii) The range of subject and laws governing agriculture sector involves multiple agencies, institutions, departments, Ministers hence the coordination and interaction for collection of data and information has become a major problem due to inadequate time given for the completion of the study.

(iii) Agriculture, basically is a state subject hence, it is essential to study all the relevant laws rules, regulations, orders, schemes passed by all states/ union territories, which runs into several hundreds.

(iv) The time and resources left at our disposal did not allow us to undertake such a massive exercise nevertheless, there is a need study state laws, rules, regulations, orders, schemes etc.

Chapter 2. Market Structure and Reported Competition Issues

2.1 The aspects of Agricultural Production, Marketing, Supply and Distribution need to be thoroughly studied for the purpose of determining the market structure and other issues related to agriculture sector. The said aspects, further, need to be examined in the light of relevant agricultural laws, rules, regulations, policies, orders, schemes etc. the said laws rules etc. are broadly classified under the following major heads i.e. (i) Agriculture Marketing (ii) Agriculture Produce (ii) Mechanisation and Technology (iv) Plant Protection (v) Fertilizers, (vi) Horticulture (vii) Co-operation and (viii) seeds. The important central laws dealing on the above aspects is listed in Annexure-I. The subject 'agriculture' basically is a state subject under the Indian constitution, hence, respective state governments have also been vested with the power to enact laws on this subject. The list containing such sample laws enacted by state governments concerned on different aspects of agriculture is depicted in Annexure-II.

2.2 A review of literature on the subject revealed a fact that a considerable number of studies have been carried out globally as well at national level. However, only two important and major reports i.e. one global report³⁹ and one national report⁴⁰ are referred briefly for the purpose of brevity.

Global Study:

2.3 Facilitating Efficient Agricultural Markets in India; an Assessment of Competition and Regulating Reform Requirements. The Australian Centre for International Agricultural Research, Australian Government, August, 2011

2.3.1 Major Findings & Impacts:

This report came to the findings that agricultural supply chains in India are subject to numerous form of regulating interventions such as input subsidies, APMC (Agricultural Produce Market

³⁹ Facilitating Efficient Agricultural Markets in India; An Assessment of Competition and Regulation Reform Requirements. The Australian Centre for International Agricultural Research, Australian Government August, 2011 (policy no. ADP/2007/062)

⁴⁰ First report of Committee of State Minister In-Charge of agriculture marketing to promote Reforms, appointed by Government of India, Ministry of Agriculture, April, 2001

Committee) Markets and the activities of Food corporation of India⁴¹. The impacts noticed and policy options proposed, in brief, are listed below:

(1) Impacts:

(a) Scientific Impacts now and in 5 years⁴².

1. The regulatory intervention by government in the form of providing input subsidies, APMC Market and the activities of FCI are generally inefficient in meeting their stated public policy objectives and therefore unnecessarily restrict competition and significantly distort price signals through to the farm Level .

(b) Capacity impacts now and in 5 years⁴³ The response by government to declining yields and resource degradation has been on going increases in input and output subsidies. The Government of India agreed with the proposed approach to request that further work be undertaken on the Indian onion to assess whether regulatory restriction on competition and and/or anti competitive behaviour could explain recent high onion prices.

(c) Community impacts – now and in 5 years⁴⁴

(i) Economic impacts⁴⁵

India is facing immediate food price inflation and declining agricultural productivity. By providing an approach to agricultural policy reform and identifying specific reform options in relation to the Food Corporation of India, the Indian Government now has a number of agricultural policy reform initiatives in place through agencies such as the Competition Commission of India.

(ii) Social impacts⁴⁶

Agricultural policy based on subsidised input and output prices inevitably leads to lower farm incomes, over exploitation of the natural resource base and increasing public sector debt.

⁴¹ Para 8.1. at f.n.1

⁴² Para 8.1 at f.n. 1

⁴³ Para 8.2 at f.n. 1

⁴⁴ Para 8.3 at f.n. 1

⁴⁵ Para 8.3.1 at f.n. 1

⁴⁶ Para 8.3.2 at f.n.1

(iii) Environmental impacts⁴⁷

Current agricultural policy settings are leading to increased degradation of India's natural resource base. Subsidised electricity prices are, for example, leading to excessive ground water pumping, salinity, depleted aquifers and production systems characterised by high levels of greenhouse gas emissions. The reform of subsidised food grain commodity prices and input subsidies would directly address these problems.

2.3.2 Policy Options

Recognising that policy reform is the domain of the Indian Government, the study put towards several policy options for its consideration based on the project analyses⁴⁸:

⁴⁷ Para 8, Executive Summary

⁴⁸ That the Indian Government, with the Competition Commission of India, move to adopt a 'market failure' based policy framework to guide agricultural policy reform.

1. Key components of that framework include:

- a transparent legislation/regulation review process, whereby agricultural regulation that significantly influences competition and food chain prices is subject to an independent, rolling, 5 year review process;
- as part of a broader agricultural policy reform program, government objectives need to increasingly focus on facilitating efficient input and output markets with necessary targeted assistance and safeguards for vulnerable groups;
- regular monitoring and surveying of the farm sector to enable a sound understanding of developments in farm incomes and productivity in response to the government's policy reform agenda, to be shared with key stakeholders; and
- the strategic application of competition law.

2. Analysis of alternative mechanisms for meeting the current government objectives pursued through

FCI operations indicates that current problems with wasteful levels of stocks and denial of food to needy consumers can be minimised by:

- addressing the FCI's food security objective through the introduction of targeted programs which effectively meet those food security objectives in relation to the rural and urban poor, such as a food stamp program;
- addressing the FCI's farm income objective through alternative arrangements, such as a guaranteed price deficiency payment scheme;
- requiring the FCI to focus on the management of the buffer stock.

3. Given that much information already exists in relation to the adverse effects of agricultural policy involving the provision of government assistance through input and output prices, early reform priority be placed on:

- improving the ability of rural labour and farm families to adopt more efficient farm practices and to move into other sectors of the economy; and
- implementing an orderly transition program from currently provided input subsidies to new farm programs which focus on more appropriate measures of productivity and the market failure issues typically associated with agricultural production systems.
- To request the Indian Government that further work be undertaken on the Indian onion market to assess whether regulatory restrictions on competition and and/or anti competitive behaviour could explain recent high onion prices.
- Given that a key objective of the project was to engage with Indian policy makers, the success of the project was further heightened by an invitation from the Chief Economic Advisor to the Indian Government, Professor Kaushik Basu, to meet with

2.4 National Study:

First report of Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011⁴⁹.

2.4.1 As per the recommendation of the conference of State Ministers of Agriculture, India held on 23rd April, 2008, a Committee of State Minister, In-charge of Agriculture Marketing was set up on 2nd March, 2010 under the Chairmanship of Hon'ble Minister of Marketing, and Cooperation, Government of Maharashtra with ten members from the state of Andhra Pradesh, Assam, Bihar, Haryana, Gujarat, Madhya Pradesh, Maharashtra, Odisha, Karnataka and Uttarakhand and Agricultural Marketing Adviser 'Ministry of Agriculture' Government of India, was made as Member Secretary, of this committee. The primary objective of this committee, inter-alia is to guide the implementation of Agriculture Marketing Reform initiatives in general and ToR in particular specified there in⁵⁰. The said Committee of State Ministers has studied and analysed in brief the following three major aspect.

(A) PRESENT AGRICULTURAL MARKETING SYSTEM IN INDIA⁵¹:

- (i) The present agricultural marketing system in the country revolves around enactment and enforcement of various legislations to protect the interests of producers and regulate market functionaries in the marketing channel.

him following the workshop to discuss the project findings. He was particularly interested in the proposed reforms to the Food Corporation of India given the recent high food inflation being experienced despite the high stock holdings of the FCI.

⁴⁹ infra at f.n. 2

⁵⁰ The Terms of Reference of the Committee:-

- (i) To persuade various State Governments/Administration of Union Territories (UT) to implement the reforms in agriculture marketing through adoption of model APMC Act and model APMC Rules;
- (ii) To suggest further reforms necessary to provide a barrier free national market for benefit of farmers and consumer;
- (iii) To suggest measures to effectively disseminate market information and to promote grading, standardization, packaging, and quality certification of agricultural produce.

⁵¹ Summary of First report of Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011. Prepared by DMI, Faridabad, Ministry of Agriculture Government of India, Para 1,

(ii) Except the States of Jammu and Kashmir, Kerala, Manipur and small Union Territories (UTs) such as Dadra and Nagar Haveli, Andaman and Nicobar Islands, Lakshdweep, etc. all other States and UTs in the country have enacted State Marketing Legislations. The Government of Bihar had repealed its APMC Act since September 2006.

(iii) The APMCs in the country collect market fee in lieu of the services provided by them to facilitate marketing transactions. The rate of market fee varies from as less as 0.5per cent in Gujarat to maximum of 2 per cent in States like Punjab and Haryana, etc.

(iv) APMCs came into existence as service oriented institutions operating to protect the interests of farmers and to check malpractices, if any, in marketing transactions for commodities and jurisdiction notified for the purpose. The advent of regulation of markets helped in mitigating marketing problems of the farmers to a considerable extent but they did not come upto the expectations of efficient marketing system. Over the years, they gradually shifted from service-oriented institutions to revenue generating institutions for the State.

(B) FUTURE CHALLENGES:

After having consultation with State Governments on the recommendations made by Inter-Ministerial Task Force constituted on 4th July, 2001 the Ministry of Agriculture, Government of India formulated a Model Law on Agriculture Marketing in the year, 2003 and circulated to State Governments for implementation.

The draft Model Legislation provided for⁵²:

- (i) The establishment of private markets/yards, direct purchase centers, consumer/farmers markets for direct sale and promotion of public private Partnership in the management and development of agricultural markets in the country.
- (ii) Separate constitution for special markets for commodities like Onions, Fruits, Vegetables, Flowers, Etc.
- (iii) Prohibition of commission agency in any transaction of agricultural commodities with the producers.
- (iv) Redefinition of the role of State Agricultural Marketing Boards to promote standardization, grading, quality certification, market led extension and training of farmers and market functionaries in marketing related areas.

⁵² ibid, Para 2.1

(v) Constitution of state agricultural produce marketing standards Bureau for promotion of grading, standardization and quality certification of agricultural produce.

(C) THE PRESENT AGRICULTURAL MARKETING SYSTEM: CONCERNS AND SUGGESTIONS⁵³:

(i) Promotion of Markets in Private or Cooperative Sector⁵⁴

Some States have (also) prescribed a minimum distance of private/Cooperative markets from the APMC markets. Such stipulations are likely to be prohibitive and may not encourage private markets.

(ii) Establishment of purchase centres and direct purchase from farmers⁵⁵.

In Andhra Pradesh, the license fee (Rs 50,000) prescribed for the establishment of a procurement centre is prohibitive. Direct procurement needs to be encouraged by way of simplification of its licensing system to provide for rationalised registration mechanism with adequate protection for farmers and a provision of waiver of market fee on it.

(iii) Contract Farming⁵⁶:

Only 12 States have exempted the market fee on purchases under contract agreements.

(iv) Market Fee⁵⁷:

Rationalization of market fee and levy of single point market fee is needed to facilitate the free movement of the produce inside a State, price stabilization and reduce price differences between the producer and consumer markets.

(v) Commission Agents⁵⁸:

The commission rates have not been reduced despite the infrastructure development taken place within the APMC Markets. The high incidence of commission charges on agricultural / horticultural produce renders their marketing cost high, an undesirable outcome.

⁵³ *ibid*, Para 3.2

⁵⁴ *ibid*, Para 3.2.(i)

⁵⁵ *ibid*, Para3.2.(ii)

⁵⁶ *ibid*, Para 3.2.(iii)

⁵⁷ *ibid*, Para3.2.(iv)

⁵⁸ *ibid*, Para 3.2.(v)

(vi) Establishment of Farmers' Markets (Direct Sale by Farmers)⁵⁹

Long before the circulation of Model Act, 2003, Several States have promoted farmers Markets. These include Punjab (Apni Mandi), Haryana (Apni Mandi), Rajasthan (Kisan Mandi), Andhra Pradesh (Rythu Bazar), Tamil Nadu (Uzhavar Sandai), Maharashtra (Shetkari Bazar), Karnataka (Raithara Santhe) and Orissa (Krushak Bazar). These markets have benefited both farmers and consumers.

(vii) Sale of Notified Agricultural Produce Outside the Market Yard by Farmers⁶⁰.

Once a particular area is declared as a market area, no person or agency is allowed to carry on wholesale marketing activities in that area without obtaining license for the same. This restriction has led to large intermediation and effectively resulted in limiting market access to farmers and prevented development of a competitive marketing system in the country.

(viii) Declaration of some Markets as Special or Specific Commodity Markets⁶¹

Already there are special markets for fruit and vegetables. The Model Act 2003 provides for declaration of any market as a special market or special commodity market with proper market infrastructure. Nine States have only made this provision in their amended Act.

(ix) Mandatory Utilization of Market Committee Fund/Development Fund for Marketing Development⁶².

There is no specific provision in the APMC Act, which prohibits spending of market committee fund or development fund on purposes other than market development. As a consequence, a considerable part of these funds built out of market fee is transferred to general account of the State Governments. To check such practices, the Model Act, 2003 provides for application of said fund for creation and promotion, on its own or through public-private partnership, infrastructure of post-harvest handling, cold storage, pre-cooling facilities, pack houses, etc. for modernizing the marketing system.

⁵⁹ *ibid*, Para 3.2.(vi)

⁶⁰ *ibid*, Para 3.2.(vii)

⁶¹ *ibid*, Para 3.2.(viii)

⁶² *ibid*, Para 3.2.(ix)

(x) **Reorientation of activities of APMCs and State Agriculture Marketing Boards (SAMBs)⁶³.**

APMCs and SAMBs should pay more attention to development of ‘markets’ and empowerment of farmers in post-harvest management.

(xi) **Lack of Competition in Regulated Markets⁶⁴**

The licensing of commission agents/traders in the regulated markets has led to a monopoly situation in many States. For new licensing of traders/commission agents, owning space/shop within the market yards has been made compulsory. This acts as a major entry barrier for a new entrepreneur and thus prevents competition.

(D) Policy Recommendations made by the Committee of State Ministers, 2011⁶⁵:

The committee made several policy recommendations under the following major heads:

(a) Reforms to Agriculture Markets⁶⁶

(b) Promotion of Investment in Marketing Infrastructure Development⁶⁷

⁶³ ibid, Para 3.2.(x)

⁶⁴ ibid, Para 3.2.(xi)

⁶⁵ ibid, Page No. 6

⁶⁶ 1. The States are required to amend the APMC Act on the lines of Model Act and the reforming States may also notify Rules at an early date. It is necessary that Member States may complete the process early

2. The reformed States may come forward for development of Terminal Market Complex in their State. In order to simplify the procedure and promote private sector investment in development of Wholesale and Terminal Market Complex in the country, it was decided that there should be Unified single registration for main market (Hub) and Collection Centers (Spokes). It was also suggested that Collection Centers be treated as sub-yard under the Act to provide for a unified registration system.

3. The professionals are required for efficient management of existing markets for which either CEO of the Market Committee from outside the cadre may be appointed or existing personnel may be given professional training to manage the APMCs efficiently;

4. There is a need for independent regulator for market operation for which the post of Director Marketing as regulator may be segregated from the post of M.D. of Marketing Board as the Operator and Director Marketing should not draw salary and allowances from the Marketing Board. Thus, the role of service provider and regulator should be demarcated;

5. In many of the States, there is a provision that for taking a license, there should be shop in the mandi yard, which is hindrance for increasing the number of buyers in the market. Therefore, it was decided that the Member States de-link the provisions of compulsory requirement of shop for registration of traders / market functionaries for increasing the competition.

⁶⁷ 6. Under Essential Commodities Act, there is a need to have distinction between genuine service provider and black marketeers/hoarders, to encourage investment and better service delivery to the farmers. It was recommended to provide exemptions to Direct Marketeer, Contract Farming sponsor and Godown owner to the limit of their capacity of utilization of previous year;

7. Member States may maintain a separate account of market fee realized from purchase /sale of perishable horticultural produce and utilize the same for development of marketing infrastructure for horticultural produce

- (c) Rationalization of Market Fee/Commission Charges⁶⁸.
- (d) Contract Farming⁶⁹:
- (e) Barrier Free Markets⁷⁰.
- (f) Market Information System⁷¹

exclusively. Member States are required to amend their corresponding Rules to facilitate the same pending with which Member States may consider by issuing and instant appropriate orders to implement the same.

8. It was unanimously agreed that investment in marketing infrastructure under RKVY be increased to minimum 10-15% of State RKVY spending in reformed states. A letter should be issued to the Chief Secretaries of States stipulating such minimum investment. It was further stipulated that efforts be made to encourage certain minimum private investment in marketing infrastructure outside the APMCs also.

9. In order to enhance the private sector investment in marketing and market infrastructure development projects, there is need of incentivizing such investments, being long gestation period projects, by way of **Viability Gap Funding** and treating them “as infrastructure project” so as to help attract FDI and ECB for their development;

⁶⁸ 10. It was decided that Market fee/cess including Rural Development Fund. Social Development Fund and Purchase tax etc. should be maximum 2% of the value and the commission charges should be not more than 2% for food grains/oilseeds and 4% for fruits and vegetables;

11. it is necessary to link the mandi fee with the service and infrastructure being provided for transaction of agricultural commodities. If the direct marketing entrepreneur provides minimum specified infrastructure facility and backward linkage to the farmers, the concerned States/APCM should waive off market fee on such direct marketing;

⁶⁹ 12 To encourage contracting parties, the following is recommended for simplifying & rationalizing the registration process:

- (a) District level authority may be set up for registration of contract farming and no market fee should be levied under it. The APMC should not be the authority for registration / dispute settlement under contract farming; and
- (b) The disputes may be settled within five days and the decretal amount of appeal should not be more than 10 per cent of the amount of goods purchased under contract farming. Appeal should be disposed off within 15 days. No solvency certificate / bank guarantee may be required, if payment is made to the farmers on the same day of procurement of their produce.

⁷⁰ 13. The system of licensing of traders, commission agents etc. should be replaced by simpler & more progressive system of Registration. The validity period of registration should not be less than five years and such private markets should also be given exemption on land ceiling for smooth development of market infrastructure in the country. In order to ensure smooth and efficient marketing of agricultural produce, it was decided that there should be single window unified single registration for traders/market functionaries across the State to facilitate.

14. With the view to move towards barrier free National market, it was unanimously agreed by the Member. States that market fee/Cess can be levied at first transaction only between farmer and trader and in subsequent trading between trader to trader, there should be service charge related to service in the State as well as across the country.

15. In some of the States, there are check-gates for recovery of market fee, which hinders smooth movement of agricultural commodities particularly the fruits and vegetables, causing unnecessary delay and wastage. Therefore, it was decided that the Member States should take Initiative to remove such physical barriers, if any;

16. Member States deliberated on the requirement of documents for farmers to be carried with the consignment and it was decided that States should notify the type of documents to be a farmer, so that his consignment is not halted by the check posts / barrier; and

(g) Grading and Standardization⁷²

2.5 A discussion held with the officials of the Directorate of Marketing Inspection (DMI), Faridabad, Ministry of Agriculture, Government of India has further revealed the following major problems faced in the process of Marketing agricultural Produce through APMC markets throughout the country.

- (i) Restriction to provide or allow alternative marketing channels
- (ii) Compulsory requirement of owning shops within APMC premises
- (iii) Requirement of minimum distance of private/cooperative markets from existing APMC market.
- (iv) Compulsory payment of market fee even if sale transaction takes place outside the market yard.
- (v) Restriction on trading in another Mandi.
- (vi) Regulator and licence issuing authority one and the same.
- (vii) Levy of Market fee at each stage.

2.6 Monopoly procurement of Agricultural Produce by government Agencies through Minimum Support Price (MSP)

2.6.1 The Farmers in India, often, do not get fair and reasonable price for their produce after harvest. Further, due to lack of adequate storage facility coupled with pressure from the creditors, the farmers resort to distress sale of their produce, at times, far below the cost of production of such commodities.

2.6.2 The government of India, with a view to ensure remunerative prices to the growers for their produce announces Minimum Support prices (MSP) for procurement of 27 Commodities⁷³.

⁷¹ 17. Member States will make effort to ensure proper and regular data entry in AGMARKNET nodes provided in the Regulated Markets in the State for the benefit of the farmers.

18. In order to enhance the private sector investment in marketing and market infrastructure development projects, there is need of incentivizing such investments, being long gestation period projects, by way of **Viability Gap Funding** and treating them “as infrastructure project” so as to help attract FDI and ECB for their development;

⁷² 19. There is a need for grading of agricultural produce before it is sold to facilitate the farmers to fetch the prices commensurate the quality. States should provide Directorate of Marketing and Inspection (DMI), necessary inputs such as name of commodity, quality parameters important for formulation of grade standards for producers’ level grading under Agricultural Produce (Grading & Marking) Act, 1937, which would be relevant and specific to their State;

20. To promote the grading and testing of agricultural produce, States are required to take initiative for establishing grading units with trained manpower in the market to attend to work of grading and to promote private laboratories for testing agricultural produce on use-charge basis.

⁷³ **Cereals-** Paddy, Wheat, Jowar, Bajra, Maize, Ragi and Barely.

2.6.3 The procurement of Agricultural Commodities at MSP are being carried out by the following Government agencies with monopoly status:

- (i) Food Corporation of India (FCI) for food stuffs.
- (ii) Cotton Corporation of India (CCI) for cotton.
- (iii) Jute Corporation of India for Jute.
- (iv) Central State Warehousing Corporation (CSWCs) for oil seeds and pulses.
- (v) National Agricultural Marketing Federation of India (NAFED)
- (vi) National consumer Cooperative Federation (NCCF)
- (vii) Tobacco Board.

Further, the Government of India reimburses upto 15 per cent of MSP in case of the losses, if any incurred by the said central agencies while undertaking Price Support Scheme (PSS). Besides the government also provide working capital to the central agencies to undertake PSS.

2.7 The status of Agriculture Markets in India

2.7.1 As per the National Commission on Agriculture (NCA), one market each within the radius of 5 sq.kms should be established in India. The status of Agriculture Markets in India (national level) as on 31.3 2011 is given below:

Table: 2/: Status of Agriculture Markets in India as on 31.3.2011

Sl. No.	Particulars	No. of Markets
1	Required number of Markets (as per NCA)	41, 868
2	Regulated Markets	7246
3	Wholesale markets	6534
4	Rural Primary markets	21,238
5	Sub total(2+3+4)	27,777
6	Total Agricultural markets (5+2)	35,023

Pulses: Moong, Urad, Arhar, Gram Lentil , Pea's.

Oil Seeds: Ground nut, Rapeseed and Mustard, Niger seed, Soyabean, Sunflower.

Fiber Crops: Cotton and Jute

Others: Sugarcane, VFC Tobacco, Onion Potato and Coconut

7	Market needs to be established (1-6) (as per NCA estimate)	6845
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Source: Number Of Whole Sale, Rural Primary & Regulated Markets In India (Final) as on 31 .03.2011 (Directorate of Marketing & Inspection , Department of Agriculture & Cooperation, Ministry of Agriculture, A-Block, CGO Complex, NH-IV, Faridabad (Haryana) -121 001)

2.7.2 The state wise details of markets along with other parameters are given in Annexure IV.

2.7.3 It is sad to note that the average area served by each market is far in excess of the area to be served as per the recommendation of NCA ie. Radius of 5 KM sq. kms.

The UT of Pondicherry tops the list with an average of 54.67 sq. kms served by each market. On the contrary, the average area served by a market in Meghalaya extends to 11,214.50 sq kms.

An analysis of the state wise data of Agriculture Markets in India (Table 2.1) clearly reveal the following major inferences.

- (i) Not even a single state/UT is in any way nearer to the average areas to be served by each market (ie 5 sq. kms)
- (ii) The farmers have to travel on an average between 55 sq. kms to over 1200 sq. kms for the purpose of marketing their harvested agricultural produce.
- (iii) Due to non-availability of agricultural markets for their Agricultural produce within a reasonable distance, the farmers, perhaps, are forced to sell their produce to the private traders at throw away price. In such a situation, the private trader virtually becomes the dictator of the price of agricultural produce, often, far below the cost of cultivation.

2.7.4 This coupled with several other factors lead to commission of suicides by farmers. As per the latest information available, one farmer for every 30 minutes die in India.⁷⁴

2.7.5 One possible recourse to revert the situation could be to encourage the entry of private markets. Such a move, will not only minimise the current problems faced by farmers towards marketing their agricultural produce but also shall definitely infuse competition among existing markets, private traders and proposed private markets.

⁷⁴ The Hindu daily, 29th October. 2011.

2.8 Agriculture Credit flow to Farmers:

The government of India, at times, comes out with policy measures, to enhance the flow of institutional credit to farmers. Such measures introduced in the past (June, 2004) inter-alia, include:

- Doubling of agriculture credit flow in the next three years
- Debt restructuring of farmers in distress and farmers in arrears
- Special One Time Settlement (OTS) Scheme for settling the old and chronic loan accounts of small and marginal farmers
- Extension of financial assistance by banks for redeeming the loan taken by farmers from private money lenders
- Commercial banks to provide financial assistance @ 100 farmers per branch and 50 lakhs new farmers to be financed in a year.

The Government of India, w.e.f. khariff 2006-07, enabled the farmers to receive crop loans upto a principal amount of Rs. 3 Lakh @ seven per cent rate of interest. The government, during the year 2010-11, provided an additional two percent interest subvention, as an incentive to those farmers who repay short term crop loans as per schedule, which was further enhanced to three percent from the year 2011-12, thereby, ultimately enabling the farmers to an effective rate of interest of four per cent only.⁷⁵

2.8.1 But, the said interest concession and facilitates are made applicable only to Public Sector Banks, Regional Rural Banks and Cooperative Banks. The farmers who avail such financial assistance from private banks and money lenders are being denied of such concession and facilities. This, perhaps, pave way for exploitation of farmers who are in need of financial assistance in many ways including parting the benefits with banks, government and other officials.

2.8. 2 Therefore, the benefits in the form of interest concession and other benefits, hitherto to made available to Public Sector Banks, Regional Rural Banks and Cooperative Banks need to be

⁷⁵ Based on a brief note prepared by ministry of Agriculture and Cooperation on “Briefly on Agriculture Credit Flow”. 2011.

extended to the farmers availing financial assistance from money lenders and private banks as well with a view to, inter-alia, minimise and eradicate slowly, the corrupt practices prevalent in the process of extending concession by government to farmers.

2.8.3 The NABARD provide financial assistance and support through refinance, inter-alia, to farmers through Public Sector Banks, Regional Rural Banks and Cooperative Banks. At present, NABARD is not extending the said support to private Banks and other agencies such as National Cooperative Development Corporation (NCDC) even though the target clientele remains the same for all. However, time has come that NABARD should provide financial assistance through refinance to NCDC under Rural Infrastructure Development Fund,

2.8.4 National Cooperative Development Corporation of India (NCDC)

National Cooperative Development Corporation of India (NCDC) was established by an Act of parliament in the year, 1963. The primary purpose and objective of NCDC, inter-alia is planning and promoting programmes for the production, processing, marketing, storage, export and import of agricultural produce, foodstuffs, industrial goods, livestock, certain other commodities and services⁷⁶. NCDC provides direct finding⁷⁷ as well as indirect finding through state/central government guarantees. The percentage of direct finding and indirect finding provided by NCDC in the year 2001-2002 was of the order of 9 per cent and 91 per cent respectively. The situation in the year 2010-11 changed completely to the extent that the direct finding has gone upto 89 percent and indirect finding plummeted to 11 percent. The said trend compelled the NCDC to resort to market borrowings at an higher rate of interest. The mandate of NCDC is to provide financial assistance to cooperative institutions with in a view to undertake related activities of agriculture such as processing, marketing, storage etc. hence, the NCDC deserve concessional financial assistance and treatment from government, RBI and NABARD.

⁷⁶ National Cooperative Development Corporation of India (NCDC), Act, 1962

⁷⁷ Refers to the extention of financial assistance to cooperative institutions based on the viability of proposal and security provided by cooperative institutions

2.9 Proposed National Food Security Bill 2011 introduced in the Lok Sabha (Bill 2011 no. 132 of 2011)

2.9.1 The Food Security entitlements provided in the bill are listed below

1. Every person belonging to priority households and general households, is entitled to receive every month from the State Government, under the Targeted Public Distribution System, seven kilograms of food grains per person per month for priority households and not less than three kilograms of food grains per person per month for general households, at subsidised prices. The entitlements at subsidised prices shall extend up to seventy-five per cent. of the rural population and upto fifty per cent of the urban population.
2. The subsidised food grains for priority households shall be distributed @ not exceeding Rs. 3 per kg of rice, Rs. 2 per kg. for wheat and rupee 1 per kg for coarse grains.
3. The same for general household shall be distributed @ not exceeding 50 per cent of the minimum support price for wheat and coarse grains and not exceeding 50 per cent of derived minimum support price for rice.
4. The priority household shall constitute (not less than) 46 per cent of rural and 28 per cent of the urban population.
5. The subsidised prices shall extend upto 75 per cent of the rural population and upto 50 percent of the urban population.
6. Every pregnant woman and lactating mother shall be entitled to meal, free of charge, during pregnancy and six months after child birth, through the local Anganwadi, so as to meet the nutritional standards specified in the Bill.
7. To provide to such women maternity benefit of rupees one thousand per month for a period of six months in accordance with a scheme, including cost sharing, payable in such installments as may be prescribed by the Central Government.
8. Every child up to the age of fourteen years shall be entitled to (a) age appropriate meal, free of charge, through the local anganwadi so as to meet the nutritional standards specified in the Bill in the case of children in the age group of six months to six years; (b) one mid day meal, free of charge, everyday, except on school holidays, in all schools run by local bodies, Government and Government aided schools, upto class VIII, so as to meet the nutritional standards specified in the Bill in the case of children in the age group of six to fourteen years;

9. The State Government is required to identify and provide meals through the local anganwadi, free of charge, to children who suffer from malnutrition, so as to meet the nutritional standards specified in the Bill and implement schemes covering entitlements of women and children in accordance with the guidelines, including cost sharing, between the central government and the state governments in such manner as may be prescribed by the central government.
10. The destitute persons shall be entitled to at least one meal every day, free of charge, in accordance with such scheme, including cost sharing as may be prescribed by the central government.
11. In case of homeless persons an affordable meals at community kitchens, in accordance with such scheme, including cost sharing as may be prescribed by the central government;
12. The state government, is of the opinion that an emergency or disaster situation exists, if to provide the affected households, two meals, free of charge, for a period up to three months from the date of disaster in accordance with such scheme including cost sharing as may be prescribed by the central government;
13. The state government is required to identify persons, households, groups, or communities, if any, living in starvation or conditions akin to starvation and provide to all such persons, meals, two times a day, free of charge, in accordance with a scheme, including cost sharing, as may be prescribed by the Central Government, for six months from the date of such identification; and any other relief considered necessary by the State Government;
14. Entitle the eligible persons covered under the proposed legislation, are made entitled to receive such food security allowance from the concerned state government to be paid to each person, in case of non-supply of the entitled quantities of food grains or meals, within the time and manner prescribed by the central government;

2.9.2 The National Security Bill introduced in the Lok Sabha has already created lot of debate and controversy. The additional demand owing to be created in the event of implementation of various entitlements provided therein shall warrant additional procurement and storage of food grains by FCI, CWC & SWCs and creating warehousing. The defective mechanism at present inforce in relation to procurement, sale, storage and distribution of Essential Commodities

through Public Distribution Scheme also, *ipso facto*, shall become applicable once the scheme is implemented. Hence, the Government should also study the issues discussed in this paper in relation to procurement, sale, storage and distribution of Essential Commodities.

2.10 Case laws decided by Competition Commission of India

1. A firm engaged in the business of health services and also entered into the warehousing business in Uttar Pradesh filed a complaint⁷⁸ against the Secretary, Ministry of Agriculture and Cooperation, Government of India (GOI) New Delhi with the following allegations:

(i) The practices adopted by Food Corporation of India (FCI), Central Warehousing Corporation (CWC) and State Warehousing Corporations (SWCs) (towards hiring of storage capacity for storing the operational and buffer stock of food grains to ensure national food security) is anti-competitive and in abuse of dominant position.

(ii) The policy of Government of India in giving absolute right and contract of procurement to FCI even though FCI has no capacity to procure fresh crops in covered godowns appears to be anti-competitive and in abuse of dominant position besides being against the interest of the country and national food security.

(iii) The FCI and associates (CWC & SWCs) are abusing their dominance and have formed an anti- competitive cartel amongst them.

(iv) FCI/ CWC/SWCs by forming amongst themselves cartel have levied various discriminatory conditions on the owners of private godowns that are willing to rent out their godowns to FCI.

The Competition Commission of India after hearing the complaint observed noted as under:

- (i) The FCI and CWC/SWCs are discharging their statutory functions within the framework of their respective laws viz the Food Corporation Act, 1964 and

⁷⁸ Krishna Mohan Hospitals & Allied ,Medical Research Centre Private Limited V. The secretary Ministry of Agriculture & Cooperation New Delhi by Competition Commission of India case No. 75 of 2011 dated December, 28, 2011.

Warehousing Corporations Act, 1962 within the policy framework of government of India.

- (ii) The relief sought for by the aggrieved party relate to the policy domain and as such cannot be granted by the CCI.
- (iii) The aggrieved party, except making bold references to the Acts of the opposite parties as anti-competitive and in abuse of dominant position, has not placed before the Commission any such anti-competitive agreement or material data to define the relevant market.
- (iv) The complaint has sought compensation Such prayers are not maintainable as the Commission does not have the power to grant compensation.

The commission finally concluded that the complainant failed to bring out coherently any competition issue or contravention of the Act, instead, his main grievances seems to be not hiring his godown by SWC or CWC.

From the above case, the commission made it clear that with regard to issues raised, if any alleging anti competitive practices or abuse of dominant position, related to the policy domain, the commission cannot grant the required relief.

2. In Re: Sugar Mills case (suo-moto case no. 1 of 2010, order dated 30.11.2011

This suo-moto case initiated by the competition commission of India (CCI) relates to the allegations of certain anti-competitive practices of sugar mills appeared in News article titled “Cartelization by Industry to Push Sugar Prices: Traders”, published in the “The Economic Times” on 26.07.2010. It was alleged in the article that the cooperative and private sugar mills have formed a cartel (by holding a meeting called by Indian Sugar Mills Association and the National Cooperative Sugar Mills Federation attended by its members) to boost ex-factory price of sugar by an average of Rs. 3 per kg strategically just one month before the peak demand season.

The CCI, by taking note of the said news item regarding cartelization sought comments from the Ministry of Consumer Affairs, food and Public Distribution, the Bombay Sugar Merchants Association based on the comments received from the said associations and replies submitted by the concerned Ministry Government of India, the CCI came to be following findings/ observations.

1. The sugar Mills operating from few states (Maharashtra, Gujarat, Andhra Pradesh, Karnataka and Tamil Nadu) have not contravened the provisions of S.3(3) of the competition Act, 2002 during the period of investigation and that actions have not caused “Appreciable Adverse Effect on Competition” (AAEC) in the market.
2. The sugar industry is not free from control and is at present highly controlled and regulated.
3. There are complex forces at play which distort and in a way proscribe the market from working in a competitive and free manner.

The CCI after considering the above facts and views, expressed the view that the government may after taking into account all aspects including need to have measures in place which may be necessary for overall socio and economic welfare frame a policy which allows the market and competitive forces to play a bigger role in the sector.

Chapter-3 Identification and Listing of Anti - Competitive Provisions and Practice

3.1 In this chapter, an attempt has been made to identify the provisions under various laws related to agriculture, that affect limit, restricts or distort the elements of competition, based on identified impediments. For the sake proper under standing the issues, the impeding legal provisions have been grouped under different categories i.e. Agricultural Marketing laws, Agricultural Produce related laws, Plant Protection etc.

3.2 Agricultural Marketing

3.2.1 The Essential Commodities Act, 1995

Objective of the Act:

To control and regulate production, manufacturing and distribution of and trade and commerce in certain essential commodities in India in the interest of general public.

Section No	Nature and Scope of the Section	Nature of Impediments*
Section-3 (1)	Powers to control production, supply, distribution, etc. of essential commodities: Confers power upon government to control regulate or prohibit the production, supply and distribution of essential commodities	
03 (2) (a)	The Government is empowered to make orders for regulating by licences, permits or otherwise the productions or manufacture of any essential commodity	A-2 Authorises the government to grant a license, permit or authorisation process as a requirement of operation.
3 (2) (c)	The Government has the power to controlling the price at which any essential commodity may be bought or sold.	Creates natural barriers affecting prospective entrants or significantly raises cost of entry or exit by a supplier.
3 (2) (d)	The Government has the power to regulating by licenses, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential	Regulatory and policy barriers

* Please refer to Annexure 3.1 for the details of nature of impediments (Annexure III of Terms of Reference of this study. The legal provisions identified in this chapter, almost in all sections, more than one impediments are associated. We have, however, restricted the reference of major impediments.

<p>3 (2) (e)</p> <p>Section 3 (3) (a)</p>	<p>commodities.</p> <p>The Government has the power to prohibiting the withholding from sale of any essential commodity ordinarily kept for sale</p> <p>Where any person sells any essential commodity in compliance with the order passed by government made with reference to clause (f) of sub-section (2), there shall be paid to him the price, therefore, as hereinafter provided:</p> <p>(a) Where the price can, consistently with the controlled price, if any fixed under this section, be agreed upon, the agreed price;</p> <p>(b) where no such agreement can be reached, the price calculated with reference to the control price, if any;</p> <p>(c) Where neither clause (a) nor clause (6) applies, the price calculated at the market rate prevailing in the locality at the date of sale.</p>	<p>(E) Limits the choices and information available to customers</p> <p>(A) Limits the number or range of suppliers</p> <p>(B) Limits the ability of suppliers to compete</p>
<p>Section 6 (E)</p>	<p>Bar of jurisdiction in certain cases:</p> <p>Whenever any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, the controller, judicial authority appointed under section 6C shall have, and, any other court, tribunal or authority shall not have jurisdiction to make orders with regards to the possession, delivery, disposal, release or distribution of such essential commodity, package, covering, receptacle, animal, vehicle, vessel, or other conveyance.</p>	<p>(D) Regulatory and policy barriers</p>

3.2.2 The Food Corporations Act, 1964

Objectives of the Act:

- (i) To procure a portion of the marketed surplus of food grains and other agricultural commodities at incentive prices from farmers on behalf of central or state government.

- (ii) To make timely releases of the stocks through PDS so as to ensure that the price payable by the final consumer of food grains and other food stuffs do not go up unnecessarily.
- (iii) To minimize seasonal price fluctuations and inter regional price variations in agricultural commodities by establishing a purchasing and distribution network.
- (iv) To build buffer stock to food grains of prescribed size to meet situations that may arise as a result of shortfall in internal procurement and imports.

Section No.	Nature and Scope of the Section	Nature of Impediments
Section 13 2 (a) 2 (b)	<p>Functions of Corporation: The primary duty of Corporation is to purchase, storage, movement, transport, distribution and sale food grains and other food stuffs.</p> <p>The FCI promote the production of such food grain and other food stuffs</p> <p>FCI to set up or also assist in the setting up rice mills, flour mills and other undertaking for the processing of food grains and other foodstuffs</p>	<p>(A) Limits the number or range of suppliers</p> <p>(D) Regulatory and policy barriers</p>
Section 28	<p>Lending by Food Corporation on security of food grains:</p> <p>FCI to lend or advance money to any Person who engaged in security of food grain production should also take care of other securities connected with such production.</p>	<p>(B) Limits the ability of suppliers to compete</p>
Section 29	<p>Power to enter into agreement for purchase of foodgrains after harvest: FCI is empowered to enter into any agreement with any grower of food crops for the purchase of foodgrains after the harvest and such agreement may provide that any sum payable by the Corporation to the grower under such agreement shall be payable to any scheduled bank or other financing agency nominated by the grower in this behalf to such extent as may be specified in the agreement.</p>	<p>(A) Limits the number or range of suppliers</p> <p>(B) Limits the ability of suppliers to compete</p> <p>(E) Limits the choices and information available to customers</p>
Section 30	<p>Guarantee by Food Corporation: FCI is empowered to guarantee any loan And</p>	<p>(C) Reduces the incentive of suppliers to compete</p>

	also other loan raised by a grower of the food crops.	(E) Limits the choices and information available to customers
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3.3 Agriculture produce

3.3.1 Agriculture Produce (Grading and Marking) Act, 1937

Objective of the Act:

To provide grading and marking of agricultural and other produce

Section No.	Nature and Scope of the Section	Nature of Impediments
Section 3B Section 3B (2)	Power of authorised officer to seize agricultural produce : Any officer with prior authorization made in Sub-section (1) of section 3A may seize and detain any agricultural produce, if he finds an offence under this act and rule made. Section 102 of CrPc, 1973 shall apply to every seizure made under this section.	(B) Limits the ability of suppliers to compete (C) Reduces the incentive of suppliers to compete
Section 5B (1) 5B (3) 5B (4)	Power to prescribe compulsory grade designations in respect of certain articles The central government is empowered in public interest or protection of the consumer to restrict the sale or not to sold any schedule article or class of articles with the grade designation mark No person shall sell or offer to sell or distribute or offer where notification under sub-section (1) issued in respect of any area or areas. Contravention of the provisions of this section shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand.	(B) Limits the ability of suppliers to compete (D) Regulatory and policy barriers

3.3.3 The Warehousing (Development and Regulation) Act, 2007

Objective of the Act:

To make provisions for the development and regulation of warehouses, negotiability of warehouse receipts, establishment of warehousing development and regulatory authority and connected matters.

Section No.	Nature and Scope of the Section	Nature of Impediments
Section 3 (1)	Requirement of Registration for warehouses issuing negotiable warehouse receipt: (1) No person shall commence or carry on the warehousing business unless he has obtained a registration certificate in respect of the concerned warehouse or warehouses granted by the Authority under this Act:	(A) Limits the number or range of suppliers (B) Limits the ability of suppliers to compete (D) Regulatory and policy barriers
Section 5 (1)	Registration of accreditation agencies: The authority has the power to determine the number of accreditation agencies time to time and issue certificate of accreditation to warehouse issuing negotiable warehouse receipt.	(A) Limits the number or range of suppliers (B) Limits the ability of suppliers to compete
Section 35 (b)	Powers and Functions of Authority: to regulate the registration and functioning of accreditation agency, renew, modify, withdraw, suspend or cancel such registration, and specify the code of conduct for officials of accreditation agencies for accreditation of the warehouses	(A) Limits the number or range of suppliers (B) Limits the ability of suppliers to compete (D) Regulatory and policy barriers

3.4 Mechanization and Technology

3.4.1 The Dangerous Machines (Regulation) Act, 1983

Objective of the Act:

To provide for the regulation of trade and commerce in and production, supply, distribution and use of the product of any industry producing dangerous machines with a view, to securing the welfare of labour operating any such machine and for payment of compensation for the death or bodily injury suffered by any labourer while operating any such machine, and for other connected matters.

Section No	Nature and Scope of the Section	Nature of Impediments
Section-6	Power of controller to issue order: The controller has the power to issue order to carry out the provisions of the act	(A) Limits the number or range of suppliers
Section-9	Issue, renewal and cancellation of Licences to manufactures and dealers : No person shall manufacture, or carry out business without a valid licence issued by the Controller	(A) Limits the number or range of suppliers

3.5 Plant Protection

3.5.1 The Protection of Plant Varieties and Farmers' Rights Act, 2001

Objectives of the Act:

- (i) To provide an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants.
- (ii) To provide for the rights of farmers and plant breeders and right to stimulate investment for research and development and to facilitate growth of the seed industry which will ensure availability of high quality seeds and planting materials of improved varieties to farmers, moreover to accelerate agricultural development.

Section No	Nature and Scope of the Section	Nature of Impediments
Section 14	Every person specified in section 16 make application for registration of any variety of clause (a), (b) and (C) of this section.	(A) Limits the number or range of suppliers (D) Regulatory and policy barriers
Section 18(1).	Form of application: Every application for registration under section 14 shall (a) be with respect to a variety; (b) state the denomination assigned to such variety by the applicant; (c) be accompanied by an affidavit sworn by the applicant that such variety does not contain any gene or gene sequence involving terminator technology; (d) be in such form as may be specified by regulations; (e) contain	(A) Limits the number or range of suppliers (B) Limits the ability of suppliers to compete

	<p>a complete passport data of the parental lines from which the variety has been derived along with the geographical location in India from where the genetic material has been taken and all such information relating to the contribution, if any, of any farmer, village community, institution or organization in breeding, evolving or developing the variety;</p> <p>(f) be accompanied by a statement containing a brief description of the variety bringing out its characteristics of novelty, distinctiveness, uniformity and stability as required for registration; (g) be accompanied by such fees as may be prescribed;</p> <p>(h) contain a declaration that the genetic material or parental material acquired for breeding, evolving or developing the variety has been lawfully acquired; and</p> <p>(i) be accompanied by such other particulars as may be prescribed</p>	
Section 20 (1)	<p>Acceptance of application or amendment thereof: Registrar after receiving of application under section 14, he will start enquiry and if he satisfy fit to the particulars contained in such application, accept the application absolutely or subject to such conditions or limitations as he deems fit.</p>	(A) Limits the number or range of suppliers
Section 29	<p>Exclusion of certain varieties : No registration of a variety shall be made where commercial exploitation of such variety affects human, animal, plant life and health or environmental concerns.</p> <p>The central government is vested with power to specify the genera or species for the purposes of registration of varieties other than extant varieties and farmers' varieties by notification.</p> <p>There are certain Special provisions relating to application and registration under this act where any technology involved which is injurious to the life or health of human beings, animals or plants cannot be registered</p>	(A) Limits the number or range of suppliers

	person not to dispose of any stock in his possession.	suppliers
Rule 31	Prohibition of sale : No person can sell, dispose of any stock in his possession which was ordered under rule 30 by the insecticide inspector.	(A) Limits the number or range of suppliers

3.6 Cooperation

3.6.1 National Cooperative development Corporation Act, 1962

Objective of the Act:

To provide for the incorporation and regulation of a corporation for the purpose of planning and promoting programmes for the production, processing, marketing, storage, foodstuffs and certain other commodities on cooperative principles and other connected matters.

Section No.	Nature and Scope of the Section	Nature of Impediments
Section 9	Function of corporation : The function of the corporation is to plan, promote and start finance programmes through cooperative societies	(B) Limits the ability of suppliers to compete (C) Reduces the incentive of suppliers to compete (D) Regulatory and policy barriers

3.6.2 Cooperative Laws

1. The State Governments have got the power to enact law on the subject 'cooperation' by virtue of entry 32 of State List. II of the seventh schedule of the Indian Constitution. Equally, the Union Government, (by virtue of entry 43 and 44 of List-I) have also got the power to enact the law on the subject Cooperation in respect of cooperative societies having area of operation beyond one state.

2. By virtue of exercise of the said Power, the Union Government enacted the Multi-State Cooperative Societies Act, 2002 thereby repealing the earlier Act passed in the year 1984. This

enactment is considered as a liberal legislation, hence, does not call for elaborate study in relation to the objective of this sector study.

3. The State Governments started enacting cooperative laws since 1925 for their states by conferring enormous discretionary powers upon the government and Registrar of Cooperative Societies (popularly called RCS), which came under attack from several quarters including judiciary.

4. Bated on the recommendation of a Committee on Model Cooperative Act, 1991, nearly a dozen State Governments have enacted a new liberal legislation in addition to the existing rigid law (s). Many of the Cooperative Societies registered under the new liberal Acts, at least in a couple of states have worked against, the interest of the Members, hence, the state governments are seriously thinking of not permitting registration under the new liberal Acts.

The Cooperatives, however, are engaged exclusively in certain activities such as Public Distribution System. Monopoly channel is created almost in the entire process of PDS ie. at each stage (procurement, storage, distribution, sale etc.). There is a need, therefore, to permit institutions other than cooperatives in the process of PDS.

Leaving it apart, the Cooperative Societies Acts passed by State Governments do not call for elaborate study for the purpose of this sector study.

3.7 Seeds

3.7.1 The Seeds Act, 1966

Objective of the Act:

To legislative framework for regulating the quality of certain seeds for sale, and for other connected matters.

Section No.	Nature and Scope of the Section	Nature of Impediments
Section-7	<p>Regulation of sale of seeds of notified kinds or varieties: In this section no person shall sell, offering to sell and bartering or supply any seed of any notified kind or variety, unless that seed is matched under clause (a) (b) of section 6 and other requirements as may be prescribed.</p>	<p>(A) Limits the number or range of suppliers (C) Reduces the incentive of suppliers to compete (D) Regulatory and policy barriers</p>
Section14	<p>Powers of seed Inspector: The seed inspector have the power of taking samples and send it to sees analyst for analysis any notified kind or variety from any person selling such seed and person who delivering or preparing o deliver such seeds.</p>	<p>(A) Limits the number or range of suppliers</p>
Section 17	<p>Restriction on export and import of seeds of notified kinds or varieties: This section states no person shall export or import or cause to be exported and imported any seed of notified kind or variety unless it conforms under clause (a) (b) of section 6</p>	<p>(A) Limits the number or range of suppliers (C) Reduces the incentive of suppliers to compete (D) Regulatory and policy barriers</p>
<p>Order, 1989 Section 3 General conditions for import (Section 3)</p> <p>(1)</p> <p>(3)</p> <p>5(I)</p>	<p>General conditions for Import : No consignment shall be imported into India without a valid permit issued under clause (3)</p> <p>The competent authority has the power to issue permits to applicant in Form ‘C’ and Form ‘D’ to import seeds.</p> <p>All consignments imported into India entry through only Central government notified entry point time to time for different consignments from different countries.</p> <p>And no consignment shall be allowed unless it certified an official Phytosanitary Certificate issued by the authorized officer of the country of origin</p>	<p>(D) Regulatory and policy barriers</p> <p>(A) Limits the number or range of suppliers</p> <p>(D) Regulatory and policy barriers (E) Limits the choices and information available to customers</p> <p>(D) Regulatory and policy barriers (E) Limits the choices and information available to customers</p>

3.8 Agriculture Produce Market Committee Acts, enacted by State Governments/UTS

3.8.1 As on 31st July, 2011 all the state governments and UTs except kerala, Manipur, Andaman & Nicobar Island, Dadra & Nagpur haveli, Daman Diu and Lakhyadeep have enacted Agricultural Produce Market Committee Acts. These Acts contain several provisions which limit, restrict or distort the elements of competition. Due to the large number of legislations enacted by various state governments as mentioned above, it has become difficult to study and analyze all the said legislation for the purpose of identifying the nature of impediments affecting the elements of competition.

3.8.2 However, the study on “ Competition and Regulation in Agriculture Markets in India” in the year 2009 carried out by CUTS International have analyzed all the said State Acts and identified the factors impeding effective competition. The same are reproduced below for the sake of brevity.

Competition Assessment of Agricultural Market Regulation *

SL No.	Factors Impeding Effective Competition	Present Status
1	Large number of buyers and sellers	Participation in the market, where agricultural commodities are sold and bought (exchanged), is regulated through the APMC Act. The Act results in regulated agricultural markets with near monopsonistic elements-large number of sellers but a few buyers. This impedes competition.
2	Freedom of entry and exit	Freedom of entry and exit apply to sellers. Exchanges take place at two levels-first when the farmer enters and sells his produce in the market called a mandi, and the second when the consumers buy the produce. For the producers of agricultural commodities-the farmers-there is freedom of entry and exit. So is the case for the intermediaries who are the sellers in the next stage. However, the tow sets of sellers and the mutually exclusive.
3	Barriers to participation	The farmer can sell his produce in the market place only to licensed traders and cannot sell directly to

		<p>urban consumers.</p> <p>Therefore, there are barriers to participation in the market place, both for the suppliers as well as the buyers. The buyers cannot participate in exchange with primary producers while the primary producers cannot deal with final consumers.</p> <p>This barrier to participation comes in because of the law-the APMC Act, which impedes competition.</p>
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SL No.	Factors Impeding Effective Competition	Present Status
4	Price discovery	<p>The government does not regulate prices directly, but its policies hamper price discovery by the primary producers and therefore dampen growth of the sector.</p> <p>By setting minimum prices and also procuring certain items like wheat and rice, the government kills incentives for improving quality as well as for private trade to thrive.</p> <p>Moreover, with no director marketing and lack of infrastructure, the sellers have to sell the perishable items once they get it into the market place. Thus, price discovery is not possible.</p>
5	Barriers to raising finances	<p>Farmers are allowed to raise finances but lack of organised financial markets in rural areas coupled with high transaction costs and risk of default stemming from likely crop failure and other uncertainty make the farmers unsuitable for debt.</p> <p>They are also not able to produce collaterals. Thus, their debt ridden state and lack of credit history become barriers to raising finances.</p>
6	Grants of exclusive rights to operate	<p>Since the APMC Act mandate licenses for intermediary players, only those with licenses trade, and as a result of their small number capture a large part of the purchasing power of consumers.</p>
7	Lack of competitive neutrality	<p>To the extent that the MSP has ended up becoming higher than the market price for several years now (applicable to 25 major agricultural commodities, covering most important cereals, pulses, oilseeds, cotton, Jute, sugarcane and tobacco), it has become a highly inefficient subsidy. Large scale public</p>

		sector procurement and storage has led to a shriveling of the private sector in the trade, storage and transportation of commodities. Thus, in effect there is a lack of competitive neutrality.
8	Limitations in provision	<p>There are supply side constraints in general. These are as follow:</p> <ul style="list-style-type: none"> • Small agricultural land holdings; • Low investments; • Inadequate irrigation facilities; • Lack of market infrastructure; • Low productivity; • Little value addition; and • Unorganised marketing activities.
9	Reduction in potential for competition	The mandatory provisions of the APMC Act need to be scrapped as these hamper competition by limiting participation from traders. Direct marketing should be allowed and contract farming encourage.
10	Do farmers have enough information?	<p>Information is the key to better produce and realization of better prices. Extension services are practically absent and so key information on seeds, weather and markets is absent.</p> <p>To bring in transparency the supply chain needs to be shortened, i.e. the number of intermediaries needs to be lowered. Marginal farms should pool their information requirements so that information on weather, seeds and markets is not costly.</p>

* Reproduced from the study “Competition and Regulation in Agricultural Markets in India 2009” carried out by CUTS International, India.

Chapter IV: Analysis of the Identified Issues

4.1 Essential Commodities Act, 1955

4.1.1 The Government by virtue of power conferred upon it under Sec.3 of the Essential Commodities Act, 1955 exercise control on storage and movement of goods through policy interventions. Such interventions and exercise of control paved way for corruption and bribery in large scale.

4.1.2 The attempt to restrict the movement of food grains from surplus regions to deficit regions tend to enhance price variation across the region and affect the cost of marketing and branding. It may also further make domestic prices internationally uncompetitive.

4.1.3 The Act also puts restrictions on interstate sale of agricultural commodities in many states. States like U.P., Orissa, Assam etc, are using entry permit, without which goods are not allowed to enter the consuming state. The ways, means and practice followed towards granting required entry permit to the state is a major source of harassment for dealers wishing to imports goods into the consuming state.

4.1.4 Another practice followed is collecting tax on the entry of commercial vehicle into their jurisdiction, which act as an impediment to inter-state trade. This causes significant losses to the traders due to delays, payment of entry tax and possible bribes (NCAER, 2005).

4.1.5 Bribery and Corrupt practices in large scale is prevalent in the supply and distribution channel of Essential Commodities which is primarily due to lack of adequate legal machinery to deal with such offenders effectively, and meagre punishment in the form of lesser imprisonment period and fine.

4.1.6 This Act does not deal with private marketing, investment in food processing, land ownership and ceilings.

4.1.7 The regulatory barriers inbuilt in the development of storage and processing, hampered the development of effective market institutions and lowered the capacity of agricultural producers to be internationally competitive.

4.1.8 The past experience tells a revealing fact that the Essential Commodities Act (ECA) 1955 has led to excessive control and intervention by the government, which is hampering the participation of private traders in marketing agricultural produce. The Act has conferred enormous discretionary powers upon authorities created under the Act and discourages making larger investments by corporate traders. The penal provisions under Essential Commodities Act, act as dis-incentive to production and distribution of essential commodities by companies.

4.1.9 In short, various provisions of ECA, 1955 conferred enormous monopoly and discretionary power upon the Government and its authorities. The Governments by virtue of conferment of such power under section 3 of ESA, 1955, the Central, State and Union Territories issue, at regular intervals, various control orders⁷⁹.

The said control orders are issued with the intention to ensure adequate supply of essential commodities at an affordable price without much inconvenience to the needy people. But, the reality is that neither there is control over production or control over the supply and distribution of essential commodities. For example, the over production often results in excessive stock of commodities in open space godowns leading to rot and losses. The power conferred upon Government to ensure adequate supply and equitable distribution often resulted in increase in prices and mal distribution of Essential Commodities.

4.2 Agriculture Procedure Marketing Acts (APMCs)

4.2.1 The Committee of State Minister in charge of Agriculture Marketing to promote reforms constituted by Government of India in April, 2011 has identified the following major short coming in the functioning of APMCs⁸⁰.

⁷⁹ To name a few: The Cotton Control Order, 1986; The Drugs (Prices Control) Order, 1995; the Petroleum Product (Maintenance of Production, Storage and Supply) Order 1999; The Edible Oils Packaging Order, 1998; The Sugar (Control) Order, 1966; The Seeds (Control) Order, 1983; The Fertilizer (Control) Order, 1985; The Jute (Licensing and Control) Order, 1961 etc.,

⁸⁰ Extracts from the said report.

4.2.2 The Market Committees created under APMC Act have become monopoly institutions to provide trading ground to sellers and buyers inhibiting other institutions/organizations/private sector company to enter into establishing and developing physical markets based on the requirements of buyers/sellers and the facilities needed for efficient management and competitive price formulation in markets. Consequently, evolving a real free market system has remained a distant dream for the country an agrarian economy.

4.2.3 The stipulations such as levy of licences fee, payment of minimum cost for setting up on private markets, prescription of minimum distance between private markets and APMC markets etc., are likely to be prohibitive and may not encourage private markets.

4.2.4 It is also necessary to provide a unified and single point registration system to attract private investment.

4.2.5 Direct procurement needs to be encouraged by way of simplification of its licensing system to provide for rationalization registration mechanism with adequate protection for farmers and a provision of waiver of market fee on it.

4.2.6 Single point market fee system is necessary to facilitate the free movement of the produce inside a State, bring price stabilization and reduce price differences between the producer and consumer markets.

4.2.7 The high incidence of commission charges on agriculture/horticultural produce renders their marketing cost high, an undesirable outcome.

4.2.8 The restriction imposed upon a person or agency from carrying in wholesale marketing activities in the declared market area has led to large intermediation and effectively resulted in limiting market access to farmers and prevented development of a competitive marketing system in the country.

4.2.9 The licensing of commission agents/ traders in the regulated markets has led to a monopoly situation in many states. For new licensing of traders/ commission agents, owning space/ shop within the market yards has been made compulsory. This acts as a major entry barrier for a new entrepreneur and thus prevents competition.

National Policy for Farmers:

4.2.10 Further, the National Policy for Farmers 2007 emphasised that efforts should be made to develop a single national market by relaxing international restrictions. All controls and regulations hindering increase in farmers' income should be reviewed and abolished (P.5.10.1.IV)

4.2.11 The said policy 2007, also noted that the role of the Agriculture Produce Market Committees and State Agriculture Marketing Boards needs to be transformed from mere regulatory focus to promotion of grading, branding, packaging and development of markets for the local produce. (P.5.10.1.vii)

Report of the Committee on Competition Policy, 2007

4.2.11 The Report of the working group on Competition Policy constituted by planning commission, Government of India, 2007 has ruled that there is huge potential to advance competition in the agriculture sector both from the demand side as well as from supply side⁸¹.

4.3 The Agricultural Produce (Grading and Marking) Act, 1937

4.3.1 India is the second largest producer of fruits and vegetables in the world, but only 2 percent of it is processed. The **Agricultural Produce (Grading and Marketing) Act**, empowers the government to fix quality standards. While preparing the quality and purity standards, the

⁸¹ Para. 4.3.3 & 4.3.4

On the demand side, the model Agricultural Produce marketing Committee Act is likely to provide a framework, which will abolish the 'mandi' tax and permit the framers to sell their produce outside the 'mandi' so that the farmers will get a legitimate free movement of agricultural produce between the States. This is expected to help the agriculture sector to grow faster and also augment rural income and employment.

On the supply side, competition in supply of inputs such as seeds, fertilizers, pesticides and credit may be augmented which will facilitate timely, effective and adequate supply if agricultural inputs in the country and will lead to grater efficiency through more realistic pricing, conservation of inputs use and more rational crop selection.

provisions of Prevention of Food Adulteration (PFA) Act, 1954, Bureau of Indian Standards (BIS) Act, 1986, International Standards framed by WTO should be taken into account and so that India can compete in the International Market. The Quality standard should be fixed for each and every product. There is an urgent need to promote grading and standardization for Agri-products.

4.4 Insecticides Act, 1968

4.4.1 The pesticides consumption in India is less than the same in other countries like USA, Europe, Japan and Korea. But India is facing the problem of persistence of pesticides in food and agricultural products.

4.4.2 Government has taken various steps to minimize pesticides residues. Certain pesticides were being used indiscriminately which had caused a lot of health problems to the habitants of that particular area. The Pesticide residues could affect human health and also influence the international trade.

4.5 Food Corporation Act, 1964

4.5.1 Under the present system, the under loading at the despatch point and theft of stock while unloading at the destination on behalf of FCI can be easily camouflaged and shown as rail transit losses. The difference between the economic cost of FCI and the market price also contributes to higher price.

4.5.2 Most of the storage godowns of FCI are very small in size and have, low quality structures. The grains are stored in open space leading to heavy storage losses. A world Bank Report (world Bank 2001) stated that half of the FCI's grain stocks are atleast two year's old 30 percent of the Stocks are between 2 to 4 yeas old and some grains are as old as 16 years. It is understood that substantial proportion of the grain, mainly wheat and rice, that is meant to be distributed to eligible families under the PDS ends up being sold in the open market by corrupt intermediaries including some dealers who manage PDS outlets.

4.5.3 In the current situation we urgently require a more realistic assessment of storage losses as well as the status of currently stored grains. The activities of the FCI and India's Statutory wholesale marketing arrangements were on, *primfacie* grounds, considered to be having major impact on competition and price transmission at the farm level.

4.5.4 In this regard, it is worth to refer to the **Working Group on Warehousing Development and Regulation for the twelfth plan period (2012-17)**⁸². It noted that the warehousing capacity available in India in public, Cooperative and private sector is about 108.75 million MTs. This committee further noted that an additional 35 million MTs warehousing capacity is required during 12th Five year plan period for storage of all major crops. The storage space available in the country is not sufficient to cater to the procured stocks. As a result, a substantial quantity of food grains is stored in cover and plinth (CAP) storage.

4.5.5 The Grossly inadequate storage capacity available with FCI, CWC & SWCs on the one hand and substantial loss of storage and transit losses of food grains on the other, demand for the entry and involvement of private traders with a view to meet the additional 35 million MTs warehousing capacity during the 12th Plan period.

4.5.6 The Private Traders engaged in warehousing have already approached the Competition Commission of India alleging formation of cartel by FCI, CWC and SWCs (please refer to the case discussed under Chapter 2 Para. 2.8.2). Though the Competition Commission of India rejected the contention of private traders alleging cartelisation among FCI, CWC and SWCs towards hiring godowns, but the discriminatory approach adopted by SWCs and CWCs towards hiring warehousing facility available with private traders primarily with a view to indulge in corrupt practices have come to lime light.

4.5.7 The best way, perhaps, to put an end to this allegation is to bring transparency in the manner of hiring godowns by CWCs and SWCs including from private godown owners. The Warehousing Development and Regulatory Authority created under the Warehousing Development and Regulation Act, 2007 should look to this issue seriously.

⁸² Constituted by Planning Commission, Government of India, October, 2011.

4.5.8 The nature of FCI operations are such that certain purchase centres are opened not so much for procurement as for preventing distress sales. The cost of operating such distress centres should be taken into account while bench marking FCI's costs. There is an urgent need to support and promote crop insurance and weather information to farmers.

4.6 The Protection of Plant Varieties and Farmers' Rights Act, 2001

4.6.1 *The Act complies with India's obligations under Article 27.3 (b) of the TRIPS Agreement of the WTO by providing an effective sui generic system for protection of plant. The Act conferred upon the farmers nine rights which can be said to have been conferred upon the farmers under the Act including: the rights to save, exchange and (to a limited extent) sell seeds and propagating material, to register varieties, to recognition and reward for conservation of varieties, to benefit sharing, to information about expected performance of a variety, compensation for failure of variety to perform, availability of seeds of registered variety, free services for registration, conducting tests on varieties, legal claims under the Act, and protection from infringement*

4.6.2 *India's agriculture economy is mainly geared towards domestic markets, and depends largely on traditional varieties cultivated by small and marginal farmers who have less gain from this Act. The legislation should give due attention to national interest such as those of farmers and local communities as well as seed sector. The provisions relating to benefit sharing assurance for expected performance of protected seed and check on cosmetic breeding of crops need to be more precise. The compulsory licensing of rights and the prevention of the import of varieties incorporating the Genitic Use Restriction Technology, make it obligatory for farmers to depend on companies for seeds, At the same time the right to sell seed by the farmer is restricted i.e. the farmer cannot sell seed in a packaged form labelled with the registered name.*

4.7 The Seed Act: 1966

4.7.1 The Section –5 & 7 clearly states that only seed varieties notified by the government need to be registered and sold. Further, there is no provision for transgenic varieties of seeds. There is also no specific provision for compensation provided under this Act, in the event of government notified seeds failed to germinate except through legal recourse.

4.7.2 The Section –17 imposes restriction on export and import of seeds of notified kinds or varieties. The law should provide for imposition of such restrictions only in the interest of farmers and the nation.

4.7.3 As per Sec – 19, any person, who contravenes any provisions of the Act, prevents a Seed Inspector from taking samples etc. shall be punished for the first offence with a fine which may extend to Rs 500. If the offence is repeated he may be imprisoned for a maximum term of six months and/or fined up to Rs 1,000. The quantum of fine provided under the act is too meagre, hence, may not have adequate impact on violators. Therefore, the same needs to be enhanced substantially. The seed bill 2004 provided that any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered, can be punishable by a fine of Rs. 5,000 to Rs 25, 000. The penalty for giving false information is a prison term up to six months and/or a fine up to RS 50,000. This proposal needs to be incorporated under the Seeds Act, 1966.

4.7.4 The farmers are exempt from registering their seed varieties. The seeds produced by farmers have to conform to standards prescribed for commercial seeds. Due to this reason, farmers may find it difficult to adhere to the standards required of commercially sold seeds. Hence, the commercial standards prescribed for farmers producing their own seeds needs to be exempted, for purpose of own or local cultivation.

4.8 Policies:

4.8.1 **The Agriculture Summit 2005- Reforms for Raising Farm Income** - jointly organized by the Ministry of Agriculture, Government of India and FICCI has clearly and categorically advocated the need for agriculture reforms and policy changes vital for increasing the farm income, productivity and making Indian Agriculture globally competitive. This summit has identified several action points alongwith the concerned Ministry for initiating action under the following major heads⁸³.

⁸³ Part. IV, Action Plan, Please refer to Annexure 1A, 1B, 2.1, to 2.6, 3.I, 3.II, 3.III, 3.IV,

1. Increase investment in Agriculture sector.
2. Legislature and policy amendments
3. Public Private Partnership.

4.8.2 Despite the said Action Points identified, the Government failed to initiate appropriate action on the following important aspects/areas connected with the aspects and elements of promoting competition within agriculture sector.

1. To scrap the Essential Commodities Act, 1955.
2. To encourage Foreign Direct Investment in Food Retail (Annexure 2.2 of the said report)
3. Rationalisation of Tax
4. To phase out Mandi Tax
5. To increase Public Private Partnership in Agriculture Research and Development.
6. To encourage Decentralisation Procurement and involve private sector and banks in procurement.

4.9 Policy measures related to NCDC

4.9.1 **Restoration of Priority Lending Loan Portfolio status to the borrowers from NCDC so as to avoid differential treatment among same or similar category of borrowers.** The mandate of NCDC is to provide financial assistance to cooperative institutions with in a view to undertake related activities of agriculture such as processing, marketing, storage etc. hence, the NCDC deserve concessional financial assistance and treatment from government, RBI and NABARD. The loan facility made available to NCDC under priority Sector portfolio from Commercial Banks at concessional rates has been withdrawn by RBI w.e.f 1st April, 2010.

Keeping in view the need to ensure the survival of existence and development of cooperative institution, there exist a justification for restoration of priority sector loan portfolio facility to NCDC at concessional rates, so as to bring the borrowers of commercial banks and NCDC at par with each other.

4.9.2 Infusion of corpus fund to NCDC with a view to ensure cheaper financial assistance to undertake agricultural marketing, processing etc. related activities

In addition, NCDC will be in a position to provide cheaper financial assistance to needy cooperative institutions, at par with interest rates levied by commercial banks to individual borrowers, if the central government provide a one time financial grant of Rs. 1500 crore as demanded by NCDC⁸⁴ towards its corpus fund during 12th Five year @Rs. 300 crore per annum.

4.9.3 Application of Uniform subsidy assistance to the borrowers from all states.

For the purpose of providing financial assistance to cooperatives, the states have been divided under three broad categories i.e. (i) developed states (ii) under developed states and (iii) least developed states by NCDC. The subsidy assistance to the extent of 20-25 percent is made available to cooperatives seeking financial assistance (for marketing and storage etc.) from under developed and least developed states. However, such facility is not extended to cooperatives seeking financial assistance from cooperatively developed states.

Keeping in view the fact that cooperatives in all states mostly represent small and marginal farmers and weaker sections of the society regardless of the state where they are located, it is necessary, in the interest of equity and justice, to extend the said subsidy component facility to cooperative seeking financial assistance from developed states as well.

4.10 Extention of Interest subvention scheme to all Borrowers.

4.10.1 The Government of India, w.e.f. khariff 2006-07, enabled the farmers to receive crop loans upto a principal amount of Rs. 3 Lakh @ seven per cent rate of interest. The government, during the year 2010-11, provided an additional two percent interest subvention, as an incentive to those farmers who repay short term crop loans as per schedule, which was further enhanced to

⁸⁴ NCDC, in house paper (XII th five year plan (2012-13-2016-17) in respect of restructured Central Sector scheme for assistance to NCDC programmes for cooperative Development.

three percent from the year 2011-12, thereby, ultimately enabling the farmers to an effective rate of interest of four per cent only.⁸⁵

4.10.2 But, the said interest concession and facilitates are made applicable only to Public Sector Banks, Regional Rural Banks and Cooperative Banks.

4.10.3 Such benefits hitherto to made available to Public Sector Banks, Regional Rural Banks and Cooperative Banks need to be extended to the farmers availing financial assistance from money lenders and private banks as well with a view to, inter-alia, minimise and eradicate slowly, the corrupt practices prevalent in the process of extending concession by government.

4.11 NABARD to provide financial assistance to NCDC from RIDF.

4.11.1 The Government of India parked massive funds with NABARD under Rural Infrastructure Development Fund (RIDF). The fund generally remains grossly underutilised. The NCDC provide financial assistance to cooperatives, inter-alia, for the purpose of construction of godowns, processing and cold storage units. There is also huge demand for construction of godowns in rural and urban areas so as to meet the current demand. The RIDF parked with NABARD needs to utilised for the purpose of providing financial assistance to cooperatives through NCDC so as to increase the rural agricultural infrastructural facilities. This will slowly and gradually pave way for eliminating the near monopoly status engaged by FCI, CWC & SWCs towards hiring godowns.

⁸⁵ Based on a brief note prepared by ministry of Agriculture and Cooperation on “Briefly on Agriculture Credit Flow”. 2011.

Chapter V Conclusion and Agenda for Competition Policy

5.1 Essential Commodities Act (ECA),1955

5.1.1 To make the competition more effective in the agricultural sector, it is essential to have complete policy reforms. As recommended by various commissions and studies (referred as well as not referred) there is an urgent need to bring a central enactment to ban controls on intra and inter state movement of goods. In order to increase the participation of the private sector in agricultural marketing, amendment should made in ECA. As detailed below

- i) To remove the requirement of licensing of dealers.
- ii) Restrictions on storage and movement of food grains, sugar, oilseeds and edible oils etc.

Comprehensive review of this Act with a view scrap undesirable provisions is needed as being suggested by several quarters.

5.2 Food Corporation Act, 1964

The detail about Crop insurance scheme and weather information needs to be available to farmers at regular intervals.

It may be necessary to allow FDI to provide Insurance related services to the Agriculture sector. The services in relation to quality specifications should be strictly maintained in respect of procurement. FCI assets, more than that is required for maintenance of minimum buffer stock, should be privatized. Private Public Partnership should be encouraged for construction of modern procurement, transport, storage and logistics.

Removal of restrictions on supply of credit to agriculture, trade and storage are necessary. This may pave way for improving the efficiency of its operations and bring significant benefits to consumers and producers and improve food security.

Unless the control regime governing storage and movement of food grains and other essential commodities are suitably relaxed, the degree of success to bring elements of competition within the agriculture sector would be grossly limited. State Governments have imposed many restrictions on the movement and storage of food grains. Even when the country has achieved

self sufficiency in food stuffs, many of these controls, which have outlived their utility are still continuing. Hence there is a need to withdraw them, keeping in view the emerging new economic environment. Legislative measures for removing impediments to storage and movement of food grains need top priority.

5.3 The Recommendations made by the Committee of State Ministers in charge of Agriculture marketing to promote reforms:

The following recommendations made by the Committee in relation to agricultural marketing needs to be implemented by the government at the earliest possible.

- The system of licensing of traders, commission agents etc. should be replaced by simpler and more progressive system of registration.
- There should be single window unified single registration for traders/ market functionaries across the State to facilitate.
- There should be Unified single registration for main market (Hub) and collection centers (spokes).
- There is a need to have distinction between genuine service provider and black marketers/ hoarders, to encourage investment and better service delivery to the farmers.
- The role of service provider and regulator should be demarcated.
- Member states de-link the provision of compulsory requirement of shop for registration of trades/market functionaries for increasing the competition.
- Market fee/cess can be levied at first transaction only between farmer and trader and in subsequent trading between trader to trader, there should be service charged related to service in the State as well as across the country.
- States should take initiative to remove such physical barriers, if any.

5.4 The Insecticides Act, 1968

It is essential to have a comprehensive national approach pest management without hampering agricultural production and productivity. Education of the farmers about the ill effects of pesticides, need based use of chemical pesticides is essential and important. The Integrated pest Management approach is another way to infuse competition. The application of biological

methods and use of bio pesticides may bring down the residues in agricultural products and thereby enhance competition in foreign markets.

5.5 The Agricultural Produce (Grading and Marking) Act, 1937

The Regional Laboratories needs to be established all over India with participation of private sector. This may bring competitive spirit. The standards set by Codex are becoming increasingly acceptable world over so it can be used as a benchmark in India. The Quality standards need to be fixed for each and every product under Law. Grading and standardization for all Agri-products is necessary for competing with foreign goods.

5.6 NCDC Act, 1962

The NCDC is mandated to provide financial assistance to cooperatives. With the objective of enabling cooperative business to become producer companies and to facilitate primary procedures in organising themselves as viable business entities, the Companies' Act 1956 was amended in 2002 to provide for the incorporation of producer companies. A producer company is a hybrid between a private limited company and a cooperative society.

An amendment in the definition of Cooperatives under S.2 (C) by adding the word '**or producer company as defined under the Companies Act, 1956**' can enable the corporation. Further, the words '**or producer company**' may also be inserted at the end of proviso to Sec. 9 (e) of the NCDC Act, 1962.

5.7 The Seeds Act, 1966

In order to make competition more effective in the agricultural sector, the following recommendations are made. There is need for registration to all seeds for sale against partial registration in force as on date. (Seed Bill, 2004). There is also need to bring special provisions for registration of transgenic varieties of seeds. The law must provide for adequate compensation to farmers under the Consumer Protection Act, 1986 in the event of under performance of seeds. All seeds imported need to be regulated by the Plant Quarantine (Regulation of Import into India) Order, 2003 or any corresponding order of the Destructive

Insects and Pests Act, 1914; which should conform to minimum limits of prescribed germination standard etc. exports may be restricted under law if it adversely affects the food security of the country. There must be strict punishment provided in this Act to any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered. According to the seed bill 2004, the recommended punishment is punishable by a fine of Rs 5,000 to Rs 25,000. The penalty for giving false information is only to six months imprisonment and/or a fine up to Rs 50,000.

5.8 The Legal Provisions identified for bringing legislative changes to infuse the elements of competitions within Agriculture Sector.

5.8.1 The Essential Commodities Act, 1995

1. Section-3 [3.1, 3.2 (a), 3.2 (c), 3.2 (d), 3.2 (e), 3.3 (a)] (Powers to control production, supply, distribution, etc. of essential commodities).
2. Section 6E (Bar of jurisdiction in certain cases)

5.8.2 The Food Corporations Act, 1964

Section 13 [13.1, 13.2 (a), 13.2 (b)] (Functions of Corporation)

Section 28 (Lending by Food Corporation on security of food grains)

Section 29 (Power to enter into agreement for purchase of food grains after harvest)

Section 30 (Guarantee by Food Corporation)

5.8.3 The Agriculture Produce (Grading and marking) Act, 1937

Section 3B [3B (2)] (Powers of authorised officer to seize agricultural produce)

Section 5B [5B (1), 5B (3), 5B (4)] (Power to prescribe compulsory grade designations in respect of certain articles)

5.8.4 The Warehousing (Development And Regulation) Act, 2007

Section 3 [3 (1)] (Requirement of registration for warehouses issuing negotiable warehouse receipts.)

Section 5 [5(1)] (Registration of accreditation agencies)

Section 35 (2) (b) (Powers and functions of Authority)

5.8.4 The Dangerous Machines (regulation) Act, 1983

Section 6 (Power of Controller to issue orders.)

Section 9 (Issue, Renewal and cancellation of Licences to Manufactures and dealers)

5.8.5 The Protection of Plant Varieties and Farmers' Rights Act, 2001

Section 14 (Application for registration)

Section 18 (1) (Form of application)

Section 20 (1) (Acceptance of application)

Section 29 (Exclusion of certain varieties)

5.8.6 The Insecticides Act, 1968

Section 13 (Grant of Licence)

Section 21 [(a) (d) (e)] (Powers of Insecticide Inspectors)

Rule 30 (Form of order not to dispose of stock)

Rule 31 (Prohibition of sale)

5.8.7 National Cooperative Development Cooperation Act, 1962

Section 9 (Function of corporation)

5.8.8 The Seeds Act, 1966

Section 7 (Regulation of sale of seeds of notified kinds or varieties)

Section 14 (Powers of seed Inspector)

Section 17 (Restriction on export and import of seeds of notified kinds or varieties)

5.8.9 Order, 1989 section 3 general conditions for import

Section 3 [3(1), 3(3), 5(1)] (General conditions for Import)

Conclusion:

Though, an earnest attempt has been made, within the time and resource constraint, to study and analyse the laws, rules, orders, regulations, schemes, programmes pertaining to Agricultural Sector with the intention to specifically identify laws, rules etc. which affect, limit, restrict or prohibit the elements of competition, there is an urgent need to study all the said innumerable law, rules and regulations etc. pertaining to agricultural sector so as to get the desired result. It is recommended that the Government shall undertake immediate steps to commission a detailed sub-sectoral study on the subject for the agricultural sector covering all the laws, rules, regulations etc. framed by Central as well as State Government.

Agriculture Sector
Competition Policy in India: A Study

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Executive Summary

1. The World Bank Report on Agriculture and Achieving the MDGs noted that Current trade barriers and subsidies are high for Agriculture. There is growing agricultural trade among developing countries, but these countries also retain substantial trade barriers on agricultural products. The said report urged that the government agencies in developing countries need urgently to revisit the legal, regulatory, political, and institutional framework in the agriculture, research, extension and industrial sectors. **[Para- 1.5-1.7]**
2. The World Food Summit , 2008 encouraged the international community to continue its efforts in liberalising international trade in agriculture by reducing trade barriers and market distorting policies **[Para-1.9]**.
3. The World Development Report, 2008 noted that regulation has to strike an appropriate balance, among different interest groups, avoiding both over regulation and under-regulation, especially if there are risks and uncertainties **[Para- 1.10]**
4. The establishment of informational competition policy in the form of multi-lateral rules on restrictive business practices is considered one of the approach to address the imbalance in trade relationship. **[Para-1.12]**
5. The (Indian) Union Budget speech 2011-12 contained three important policy formulations which had direct bearing on the elements of completion in Agriculture Sector: (i) The grant of interest subvention concession to those farmers who repay their crop loans on time. (ii) Contribution of Rs. 10,000/- crore to NABARD with a view to enable NABARD to refinance the short term crop loans of the co-operative credit institutions and RRBs at concessional rates, and (iii) The need for state governments to review and enforce a reformed Agricultural Produce Marketing Acts owing to the fact that the governments regulated *mandis* some times prevent retailers from integrating their enterprises with the farmers.**[Para 1.14]**
6. The agriculture sector is vital for the food and nutritional security of the (any) Nation. The Sector remains the principal source of livelihood for more then 58 per cent of the population (India) though its contribution to the National GDP has declined to 14. 2 per cent (in the year 2010-11) due to high growth experienced in industries and services sectors. Compared to other countries, India faces a greater challenge, since with only 2.3 per cent share in world's total land area; it has to ensure food security of its population

which is about 17.5 per cent of the world population opined the Government of India **[Para 1.1.8]**.

7. The subject 'agriculture' basically is a state subject under the Indian constitution, hence, respective state governments have also been vested with the power to enact laws on this subject. The list containing laws enacted by Union government and state governments on different aspects of agriculture are depicted in Annexure-I and II respectively **[Para 2.1]**.
8. The report on Facilitating Efficient Agricultural Markets in India; an Assessment of Competition and Regulating Reform Requirements, (August, 2011), came to the findings that agricultural supply chains in India are subject to numerous form of regulating interventions such as input subsidies, APMC (Agricultural Produce Market Committee) Markets and the activities of Food corporation of India. The said study noticed several policy impact such as: a) Scientific Impacts, b) Capacity impacts, c) Economic impacts, d) Social impacts, e) Environmental impacts. Recognising that policy reform is the domain of the Indian Government, the study made several policy options for the consideration of government of India based on the project analyses **[Para- 2.3.1- 2.3.2]**
9. The Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011 has in its first report studied and analysed in brief three major aspect i.e :a) Present agricultural marketing system in India, b) Future challenges, c) The present agricultural marketing system: concerns and suggestions **[Para 2.4.1]**.
10. The concerns raised and suggestions made by the said committee include: i) Promotion of Markets in Private or Cooperative Sector, ii) Establishment of purchase centres and direct purchase from farmers, iii) Contract Farming, iv) Market Fee, v) Commission Agents vi) Establishment of Farmers' Markets (Direct Sale by Farmers), vii) Sale of Notified Agricultural Produce Outside the Market Yard by Farmers, viii) Declaration of some Markets as Special or Specific Commodity Markets, ix) Mandatory Utilization of Market Committee Fund/Development Fund for Marketing Development x) Reorientation of activities of APMCs and State Agriculture Marketing Boards (SAMBs) xi) Lack of Competition in Regulated Markets . **[Para- 2.4.1 (C)]**
11. The said Committee made several policy recommendations under the following major heads: (a) Reforms to Agriculture Markets, (b) Promotion of Investment in Marketing

Infrastructure Development , (c) Rationalization of Market Fee/Commission Charges, (d) Contract Farming, (e) Barrier Free Markets, (f) Market Information System. These recommendations need to be addressed seriously and sincerely by all the stake holders involved therein so as to infuse the elements of competitor in the area of agricultural marketing in India. **[Para 2.4.10 (D)].**

12. The major problems faced in the process of Marketing agricultural Produce through APMC markets throughout the country generally include: i) Restriction to provide or allow alternative marketing channels, ii) Compulsory requirement of owning shops within APMC premises, iii) Requirement of minimum distance of private/cooperative markets from existing APMC market, iv) Compulsory payment of market fee even if sale transaction takes place outside the market yard, v) Restriction on trading in another Mandi, vi) Regulator and licence issuing authority one and the same, vii) Levy of Market fee at each stage. **[Para- 2.5]**
13. The procurement of Agricultural Commodities at MSP are being carried out by the following Government agencies with monopoly status: i) Food Corporation of India (FCI) for food stuffs, ii) Cotton Corporation of India (CCI) for cotton, iii) Jute Corporation of India for Jute, iv) Central State Warehousing Corporation (CSWCs) for oil seeds and pulses, v) National Agricultural Marketing Federation of India (NAFED), vi) National consumer Cooperative Federation (NCCF), vii) Tobacco Board **[Para- 2.6.3].**
14. An analysis of the state wise data of Agriculture Markets in India [Table 2.1] clearly reveal the following major inferences. (i) Not even a single state/UT is in any way nearer to the average areas to be served by each market (ie 5 sq. kms), (ii) The farmers have to travel on an average between 55 sq. kms to over 1200 sq. kms for the purpose of marketing their harvested agricultural produce.(iii) Due to non-availability of agricultural markets for their Agricultural produce within a reasonable distance, the farmers, perhaps, are forced to sell their produce to the private traders at throw away price. In such a situation, the private trader virtually becomes the dictator of the price of agricultural produce, often, far below the cost of cultivation **[Para- 2.7.3]**
15. There is a need to encourage the entry of private markets in marketing agriculture produce so as to avoid suicides by farmers. Such a move, will not only minimise the

current problems faced by farmers towards marketing their agricultural produce but also shall definitely infuse competition among existing markets, private traders and proposed private markets. **[Para- 2.7.5]**

16. The interest concession and facilitates made applicable only to Public Sector Banks, Regional Rural Banks and Cooperative Banks, perhaps, pave way for exploitation of farmers who are in need of financial assistance in many ways including parting the benefits with banks, government and other officials. Hence, such benefits need to be extended to farmers availing financial assistance from other sources as well **[Para- 2.8.1]**.

17. NABARD should provide financial assistance through refinance to NCDC under Rural Infrastructure Development Fund. The mandate of NCDC is to provide financial assistance to cooperative institutions with a view to undertake related activities of agriculture such as processing, marketing, storage etc. hence, the NCDC deserve concessional financial assistance and treatment from government, RBI and NABARD **[Para 2.8.3&4]**.

18 The National Food Security Bill(2011) introduced in the Lok Sabha has already created lot of debate and controversy. The additional demand owing to be created in the event of implementation of various entitlements provided therein shall warrant additional procurement and storage of food grains by FCI, CWC & SWCs and creation of warehousing facilities. The defective mechanism at present in force in relation to procurement, sale, storage and distribution of Essential Commodities through Public Distribution Scheme, also, *ipso facto*, shall become applicable once this scheme is implemented. Hence, the Government should also study the issues discussed in this paper in relation to procurement, sale, storage and distribution of Essential Commodities **[Para- 2.9.2]**

19 The study broadly reviewed various legal provisions important agriculture laws enacted by parliament that affect, limit restrict or destroy the elements of competition. The laws reviewed include: a) The Essential Commodities Act, 1955, b) The Food Corporations Act, 1964, c) Agriculture Produce (Grading and Marking) Act, 1937, d) The Dangerous Machines (Regulation) Act, 1983, e) The Protection of Plant Varieties and Farmers' Rights Act, 2001, f) Insecticides Act, 1968, g) National Cooperative development Corporation Act, 1962, h) The Seeds Act, 1966, i) Agriculture Produce Market

Committee Acts, enacted by State Governments/UTS. The nature of impediments affecting, limiting restricting or destroying the elements of competition etc. are also indicated against sections **[Para 3.2 – 3.7]**.

20. As on 31st July, 2011 all the state governments and UTs except kerala, Manipur, Andaman & Nicobar Island, Dadra & Nagpur haveli, Daman Diu and Lakhyadeep have enacted Agricultural Produce Market Committee Acts. These Acts contain several provisions which limit, restrict or distort the elements of competition. Due to the large number of legislations enacted by various state governments as mentioned above, it has become difficult to study and analyze all the said legislation for the purpose of identifying the nature of impediments affecting the elements of competition.**(Para-3.8.1)**.
21. The excess control by govt. under sec. 3 of ESA, 1955 on storage and movement of goods through policy interventions pave way for corruption and bribery in large scale. The attempt to restrict the movement of food grains from surplus regions to deficit regions tend to enhance price variation across the region and affect the cost of marketing and branding. The Act also puts restrictions on interstate sale of agricultural commodities in many states. The ways, means and practice followed towards granting required entry permit to the state is a major source of harassment for dealers wishing to import goods into the consuming state. The collection of tax on the entry of commercial vehicle into the jurisdiction, of a state act as an impediment to inter-state trade and causes significant losses to the traders due to delays, payment of entry tax and possible bribes. Bribery and Corrupt practices in large scale is prevalent in the supply and distribution channel of Essential Commodities which is primarily due to lack of adequate legal machinery to deal with such offenders effectively, and meagre punishment in the form of lesser imprisonment period and fine **[Para 4.1.1- 4.1.5]**.
22. The regulatory barriers inbuilt in the development of storage and processing, hampered the development of effective market institutions and lowered the capacity of agricultural producers to be internationally competitive. Various provisions of ECA, 1955 conferred enormous monopoly and discretionary power upon the Government and its authorities. The Central, State and Union Territories issue, at regular intervals, various control orders. The over production often results in excessive stock of commodities in open space

godowns leading to rot and losses. The power conferred upon Government to ensure adequate supply and equitable distribution often resulted in increase in prices and mal distribution of Essential Commodities [**Para- 4.1.7-4.1.9**].

23. The Committee of State Minister in charge of Agriculture Marketing to promote reforms constituted by Government of India in April, 2011 has identified several short coming in the functioning of APMCs and these issues need to be addressed seriously and quickly by the concerned governments and its authorities. [**Para 4.2.2- 4.2.9**]
24. The National Policy for Farmers noted that the role of the Agriculture Produce Market Committees and State Agriculture Marketing Boards needs to be transformed from mere regulatory focus to promotion of grading, branding, packaging and development of markets for the local produce [**Para- 4.2.10**]
25. The Quality standard should be fixed for each and every product. There is an urgent need to promote grading and standardization for Agri- products [**Para- 4.3.1**]
26. Government has taken various steps to minimize pesticides residues. Certain pesticides were being used indiscriminately which had caused a lot of health problems to the habitants of that particular area. [**Para- 4.4.2**]
27. Substantial proportion of the grain, mainly wheat and rice, that is meant to be distributed to eligible families under the PDS ends up being sold in the open market by corrupt intermediaries including some dealers who manage PDS outlets [**Para – 4.5.2**]
28. Working Group on Warehousing Development and Regulation for the twelfth plan period (2012-17). Noted that an additional 35 million MTs warehousing capacity is required during 12th Five year plan period for storage of all major crops. The storage space available in the country is not sufficient to cater to the procured stocks. As a result, a substantial quantity of food grains is stored in cover and plinth (CAP) storage. The Grossly inadequate storage capacity available with FCI, CWC & SWCs on the one hand and substantial loss of storage and transit losses of food grains on the other, demand for the entry and involvement of private traders with a view to meet the additional 35 million MTs warehousing capacity during the 12th Plan period. The Private Traders engaged in warehousing have already approached the Competition Commission of India alleging formation of cartel by FCI, CWC and SWCs. Though the Competition Commission of India rejected the said contention but the discriminatory approach adopted by SWCs and

CWCs towards hiring warehousing facility available with private traders primarily with a view to indulge in corrupt practices have come to lime light.(**Para- 4.5.4- 4.5.6**)

29. *The compulsory licensing of rights and the prevention of the import of varieties incorporating the Genitic Use Restriction Technology, make it obligatory for farmers to depend on companies for seeds, At the same time the right to sell seed by the farmer is restricted i.e. the farmer cannot sell seed in a packaged form labelled with the registered name* [**Para- 4.6.2**].
30. The farmers are exempt from registering their seed varieties. The seeds produced by farmers have to conform to standards prescribed for commercial seeds. Due to this reason, farmers may find it difficult to adhere to the standards required of commercially sold seeds. Hence, the commercial standards prescribed for farmers producing their own seeds needs to be exempted, for purpose of own or local cultivation [**Para- 4.7.4**]
31. The Agriculture Summit 2005- Reforms for Raising Farm Income. This summit has identified several action points along with the concerned Ministry for initiating action under major heads, but the Government failed to initiate appropriate action on the identified important aspects/areas connected with the aspects and elements of promoting competition within agriculture sector [**Para- 4.8.1- 4.8.2**].
32. There is an urgent to restore the Priority Lending Loan Portfolio status to the borrowers from NCDC so as to avoid differential treatment among same or similar category of borrowers. Infusion of corpus fund to NCDC has become the need of the hour for the purpose of ensuring cheaper financial assistance to undertake agricultural marketing, processing etc. related activities [**Para- 4.9.1- 4.9.2**]
33. The subsidy assistance to the extent of 20-25 percent is made available by NCDC only to cooperatives seeking financial assistance (for marketing and storage etc.) from under developed and least developed states only need to be extended to cooperatives seeking financial assistance from cooperatively developed states as well. [**Para – 4.9.3**]
34. The subvention scheme hitherto to made available to Public Sector Banks, Regional Rural Banks and Cooperative Banks need to be extended to the farmers availing financial assistance from money lenders and private banks as well with a view to, inter-alia, minimise and eradicate slowly, the corrupt practices prevalent in the process of extending concession by government. [**Para- 4.10.3**]

35. The RIDF parked with NABARD needs to be utilised for the purpose of providing financial assistance to cooperatives through NCDC so as to increase the rural agricultural infrastructural facilities. This will slowly and gradually pave way for eliminating the near monopoly status engaged by FCI, CWC & SWCs towards hiring godowns [Para- 4.11]
36. There is an urgent need to bring a central enactment to ban controls on intra and inter state movement of goods. Comprehensive review of this Act with a view to scrap undesirable provisions is needed as being suggested by several quarters. Even when the country has achieved self sufficiency in food stuffs, many of these controls, which have outlived their utility are still continuing. Hence there is a need to withdraw them **[Para- 5.1.1-5.2]**.
37. The Committee of State Ministers in charge of Agriculture marketing to promote reforms made so many recommendations. The following recommendations made by the Committee in relation to agricultural marketing needs to be implemented by the government at the earliest possible.
- The system of licensing of traders, commission agents etc. should be replaced by simpler and more progressive system of registration.
 - There should be single window unified single registration for traders/ market functionaries across the State to facilitate.
 - There should be Unified single registration for main market (Hub) and collection centers (spokes).
 - There is a need to have distinction between genuine service provider and black marketers/ hoarders, to encourage investment and better service delivery to the farmers.
 - The role of service provider and regulator should be demarcated.
 - Member states de-link the provision of compulsory requirement of shop for registration of trades/market functionaries for increasing the competition.
 - Market fee/cess can be levied at first transaction only between farmer and trader and in subsequent trading between trader to trader, there should be service charged related to service in the State as well as across the country.
 - States should take initiative to remove such physical barriers, if any. **(Para 5.3)**

38. The Quality standards need to be fixed for each and every product under Law. Grading and standardization for all Agri- products is necessary for competing with foreign goods **[Para- 5.5]**.
39. An amendment in the definition of Cooperatives under S.2 (C) by adding the word ‘or producer company as defined under the Companies Act, 1956’ can enable the Corporation to provide financial assistance to producers company as well.**[Para- 5.6]**
40. There must be strict punishment provided in this Act to any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered **[Para- 5.7]**.
41. The Legal Provisions identified for bringing legislative changes **[Para- 5.8.1-5.8.9]** need to be amended/ modified suitably for the purpose of infusing the elements of competitions within Agriculture Sector at the earliest. **Para [5.8]**.
42. Though, an earnest attempt has been made, within the time and resource constraint, to study and analyse the laws, rules, orders, regulations, schemes, programmes pertaining to Agricultural Sector with the intention to specifically identify laws, rules etc. which affect, limit, restrict or prohibit the elements of competition, there is an urgent need to study all the said innumerable law, rules and regulations etc. pertaining to agricultural sector so as to get the desired result. It is recommended that the Government shall undertake immediate steps to commission a detailed sub-sectoral study on the subject for the agricultural sector covering all the laws, rules, regulations etc. framed by Central as well as State Government **[Conclusion]**.

Acts and Rules Pertaining to Agriculture Sector:

1. Agricultural Marketing

Essential commodities Act, 1955 (10 to 1955)

Meat food products order 1973

2. Agriculture produce

Agriculture Produce (Grading and Marking) Act, 1937 (Act No.1 of 1937) as Amended up to 1986

General Grading and Marking Rules 1988

3. Mechanization and Technology

The Dangerous Machines (Regulations Act, 1983)

4. Plant Protection

Cancellation of Certificate of Registration Order, 2010 issues under the Insecticides Act, 1968

Destructive Insects and Pests Act, 1914 (2 to 1914)

Plant Quarantine (Regulation of Import into India) Order, 2003, 2004,2005,2006,2007

Insecticides Act, 1968

Insecticides Rules

Notification for Banning the use of Monocrotophons on Vegetable (06.06.2005)

5. Fertilizers

Fertilizers (control) order, 1985

6. Horticulture

Coconut Development Board Act, (CDB) Act. 5 of 1979

CDB Rules of 1981

DCB Regulation of 1982

7. Cooperation

National Cooperative Development Corporation (NCDC) Act, 1962 (26 of 1962)

NCDC Rues, 1975

NCDC General Regulations, 1975

8. Multi- State Cooperative Societies Act

Multi- State Cooperative Societies Act, 2002

Multi- State Cooperative Societies Rules, 2002

9. Seed

The Seed Act, 1966

The Seeds (Amendment) Act, 1972

The Seeds Rules, 1968 (and Amendment Rules 1973,1974,1981)

The Seeds (Control) Order, 1983

The Essential Commodities Act, 1955

The Essential Commodities (Amendment) Act, 2006

Laws related to Agriculture enacted by state Government /UTS.

Laws in Andhra Pradesh

- The Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1987
- The Andhra Pradesh Farmers Agricultural Debtor (Moratorium) Act, 2004
- The Andhra Pradesh Municipal Laws and The Andhra Pradesh Urban Areas (Development) (Amendment) Act, 1992

Laws in Arunachal Pradesh

- The Arunachal Pradesh (Land Settlement and Records) Acts, 2000

Laws in Assam

- The Assam Agricultural Pests and Diseases Act, 1950

Laws in Chhattisgarh

- The Chhattisgarh GosevaAyog Act, 2004
- The Indira Gandhi KrishiVishwavidyalaya (Sanshodhan) Adhiniyam, 2002

Laws in Gujarat

- The Gujarat Agricultural Credit (Provision of Facilities) Act, 1979
- The Gujarat Agricultural Lands Ceiling Act, 1961
- The Gujarat Backward Classes Development Corporation Act, 1985
- The Gujarat New Capital (Periphery) Control Act, 1960
- The Gujarat Public Moneys (Recovery of Dues) Act, 1979
- The Gujarat Rural Debtors' Relief Act, 1976
- The Gujarat Sales Tax Act, 1969
- The Gujarat Scheduled Castes Development Corporation Act, 1985
- The Gujarat State Guarantees Act, 1963
- The Gujarat Tribal Development Corporation Act, 1972
- The Gujarat Value Added Tax Act, 2003

Laws in Haryana

- The East Punjab Agriculture Pests Diseases and Noxious Weeds Act, 1949
- The Haryana Agricultural Credit Operations and Miscellaneous Provision (Banks) Act, 1973
- The Haryana Kisan Pass Book Act, 1994
- The Punjab New Capital (Periphery) Control Act, 1952
- The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963

Laws in Himachal Pradesh

- The Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972
- The Himachal Pradesh Co-Operative (Agriculture and Rural) Development Banks Act, 1979
- The Himachal Pradesh Roadside Land Control Act, 1968

Laws in Jammu And Kashmir

- The Jammu and Kashmir Vegetable Seeds Act, 1952

Laws in Jharkhand

- The Jharkhand State Agriculture Produce Market (Amendment) Act, 2007

Laws in Karnataka

- The Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974
- The Karnataka Agricultural Credit Pass Book Act, 1984
- The Karnataka Debt Relief , 1976
- The Karnataka Value Added Tax Act, 2003

Laws in Kerala

- The Kerala Farmers' Debt Relief Commission Act, 2006
- The Kerala Kisan Pass Book Act, 2005

Laws in Madhya Pradesh

- The Madhya Pradesh Land Revenue Code, 1959
- The Madhya Pradesh Regulation of Uses of Land Act, 1948
- The Madhya Pradesh Towns (Periphery) Control Act, 1960

Laws in Mizoram

- The Mizoram Urban and Regional Development Act, 1990

Laws in Orissa

- The Orissa Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1975
- The Orissa Development Authorities Act, 1982
- The Orissa Land Reforms Act, 1960

Laws in Puducherry

- The Puducherry Town and Country Planning Act, 1969

Laws in Punjab

- The Nangal Township (Periphery) Control Act, 1958
- The Punjab New Capital (Periphery) Control Act, 1952
- The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963
- The Talwara Township (Periphery Control) Act, 1961

Laws in Sikkim

- The Sikkim Co-Operative Societies Act, 1978
- The Sikkim Cultivators' Protection (Temporary Provisions) Act, 1975

Laws in Tamil Nadu

- The Tamil Nadu Agricultural Labourers-Farmers (Social Security and Welfare) Act, 2006
- The Tamil Nadu Agricultural Pests and Diseases Act, 1919
- The Tamil Nadu Agricultural Produce Marketing Regulation Act, 1987
- The Tamil Nadu Agricultural Produce Markets Act, 1959
- The Tamil Nadu Agricultural Service Co-Operative Societies (Appointment of Special Officers) Act, 1986
- The Tamil Nadu Agriculture Income-Tax (Extension to Added Territory) Act, 1961
- The Tamil Nadu Debt Conciliation Act, 1936
- The Tamil Nadu Debt Relief Act, 1976
- The Tamil Nadu Estates Land Act, 1908
- The Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963
- The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961
- The Tamil Nadu Patta Pass Book Act, 1983
- The Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961

Laws in Tripura

- The Tripura Agricultural Credit Operations Act, 1976
- The Tripura Agricultural Debtors Relief Act, 1975
- The Tripura Agricultural Indebtedness Relief Act, 1979
- The Tripura Land Pass Book Act, 1983
- The Tripura Land Revenue and Land Reforms Act, 1960
- The Tripura Land Tax Act, 1978
- The Tripura Public Demand Recovery Act, 2000

Laws in Uttarakhand

- The Uttar Pradesh Krishi Utpadan MandiSamiti (Alpakalik Vyavastha) (Adhiniyam 1972)
- Adaptation and Modification Order-2002, First Amendment Act, 2003
- The Uttar Pradesh Krishi Utpadan MandiSamitis (Alpakalik Vyavastha) (Uttaranchal Amendment) Act, 2001

Laws in West Bengal

- The Bengal Agricultural Debtors Act, 1936
- The Bidhan Chandra KrishiViswavidyalaya Act, 1974
- The West Bengal Agricultural Credit Operations Act, 1973
- The West Bengal Relief of Rural Indebtedness Act, 1975
- The West Bengal Rural Indebtedness Relief Act, 1975

Annexure III

CONTROL ORDERS ISSUED BY VARIOUS STATE GOVERNMENTS*

1. Andhra Pradesh

- 1.1 The Exhibition of Price Lists of Goods Order, 1966.
- 1.2 The AP. Prevention of Hoarding of Foodgrains Order, 1973.
- 1.3 The AP. Coarsegrains (Requisitioning of Stocks) Order, 1973.
- 1.4 The AP. Huller Rice Mills (Regulation of Working Hours) Order, 1973.
- 1.5 The AP. Sheller and Combined Sheller Huller Rice Mills (Non- Trading) Regulation of Working Hours Order, 1973.
- 1.6 The A.P. Scheduled Commodities (Regulation of Distribution of Card System) Order, 1973.
- 1.7 The Scheduled Commodities Regulations, 1973.
- 1.8 The A.P. Catering Establishments (Fixation and Display of Prices of Foodstups) Orders, 1978.
- 1.9 The A.P. Livestock Feed (Levy & Restriction on Sale) Order, 1981.
- 1.10 The AP. Scheduled Commodities Dealers (Licensing & Distribution) Order, 1982.
- 1.11 The AP. Essential Commodities Distribution & Movement (Requisitioning of Vehicles at Fixed Freight) Order, 1983.
- 1.12 The AP. Rice Procurement (Levy) Order, 1984.
- 1.13 The AP. Petroleum Products (Licensing and regulation of Supplies) Order, 1980.
- 1.14 The AP. Storage of Essential Commodities(Requisitioning of Godowns) Order, 1986.

2. Arunachal Pradesh

- 2.1. The Arunachal Pradesh Motor Spirit/High Speed Diesel (Licensing and Control) Order, 1992.
- 2.2. The Arunachal Pradesh Public Distribution of Article Order, 1992.
- 2.3. The Arunachal Pradesh declaration of stock and prices of Essential Commodities Order, 1992.
- 2.4. The Arunachal Pradesh Kerosene (Licensing and Distribution) Control Order, 1992. .
- 2.5. The Arunachal Pradesh Cooking Gas (Licensing and Distribution) Control Order, 1992.
- 2.6. The Arunachal Pradesh Food Stuffs (Display of Prices by Catering Establishment) Order, 1983.
- 2.7. The Arunachal Pradesh Foodgrain (Licensing and Control) Order, 1984.
- 2.8. Arunachal Pradesh Food Stuff (Hoarding) and (Profiteering) Control Order, 1989.
- 2.9. Arunachal Pradesh Food Stuff (Distribution) Control Order, 1980.

3. Assam

- 3.1. The Assam Public Distribution of Articles Order, 1982.
- 3.2. The Assam Paddy and Rice Procurement (Levy and Licensing) Order, 1995.
- 3.3. The Assam Trade Article (Licensing and Control) Order, 1982

4. Bihar

- 4.1. The Bihar Trade Articles (Licenses Unification) Order, 1984.
-

* Reproduction of Annexure-IV from the report Inter Ministerial Task Force on Agricultural Marketing Reforms, 2001 constituted by the Ministry of Agriculture, Government of India.

5. Chhattisgarh

- 5.1. Rice Procurement Levy Policy.
- 5.2. Chhattisgarh (Food Stuffs), Public Civil Supply Distribution Scheme, 2001.
- 5.3. Rest of the Control Orders as in Madhya Pradesh have been enforced.

6. Delhi

- 6.1. The Delhi Foodgrains Dealers Licensing Order, 1988.
- 6.2. The Delhi Wheat (Licensing & Control) Order, 1996.
- 6.3. The Delhi Pulses (Licensing of Dealers) Order, 1974.
- 6.4. The Delhi Sugar Dealers Licensing Order, 1963.
- 6.5. The Delhi Bread (Licensing of Dealers and Regulation of Distribution) Order, 1975.
- 6.6. The Delhi specified Articles (Regulation of Distribution) Order, 1981.
- 6.7. The Delhi salt (Manufacture, Movement & Price) Control Order, 1960.
- 6.8. The Delhi (Display of Prices and Stocks of Scheduled Essential Commodities) Order, 1977.
- 6.9. The Delhi Essential Articles (Price Control) Order, 1977.
- 6.10. The Delhi Edible Oils (Procedure for Identification and Declaration of Unadulterated stocks) Order, 1998.
- 6.11. The Delhi Rice (Levy) Order, 1981.
- 6.12. The Delhi Kerosene Oil (Export & price) Control Order, 1962.

7. Goa

- 7.1 The Goa, Daman & Diu Controlled Commodities (Regulation of Distribution) Order 1966.
- 7.2 The Goa, Daman & Diu Foodstuff Dealers Licensing Order, 1979.
- 7.3 The Goa, Daman & Diu Kerosene Oil (Export and Price) Control Order, 1975.

8 Gujarat

- 8.1 Gujarat Essential Articles (Licensing, Control and Stock Declaration) Order, 1981
- 8.2 Gujarat Essential Articles Dealers (Regulation) Order, 1977.
- 8.3 Gujarat Catering Establishment (Display of price of meals, Refreshment and Beverages) Order, 1975.
- 8.4 Gujarat Foodstuffs (Regulation of use or Disposal in sacrifice) Order, 1969.
- 8.5 Gujarat Rice Procurement (Levy) Order, 1984.

9. Haryana

- 9.1 The Haryana Commodities Price Marking and Display Order, 1975.
- 9.2 Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 1993.
- 9.3 The Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 1998.

10 Himachal Pradesh

- 10.1 H.P. Coal Licensing and Price Control Order, 1989.
- 10.2 H.P. Trade Articles (Licensing and Control) Order, 1981.
- 10.3 H.P. Specified Essential Commodities (Regulation and Distribution) Order, 1979.
- 10.4 H.P. Hoarding and profiteering Prevention Order, 1977.
- 10.5 H.P. Commodities Price Marketing and Display Order, 1977.

11 Jammu & Kashmir

- 11.1 Not recd
- 11.2 Not recd

12 Jharkhand

- 12.1 Not recd

13 Karnataka

- 13.1 Karnataka Foodstuffs (Display of Prices by Catering Establishments) Order, 1983
- 13.2 Karnataka Essential Commodities Licensing Order, 1986.
- 13.3 Motor Spirit and High Speed Diesel (Prevention of malpractices in Supply and Distribution) Order, 1993.
- 13.4 Karnataka Essential Commodities (Public Distribution System) Control Order, 1992.

14 Kerala

- 14.1 The Kerala Essential Articles Control (Temporary Powers) Act, 1961.
- 14.2 The Kerala Khandasri/Gur Dealers' Licensing Order, 1963.
- 14.3 The Kerala Foodgrains Dealers' Licensing Order, 1967.

- 14.4 The Kerala Sugar Dealers' Licensing Order, 1967.
- 14.5 The Kerala Kerosene Control Order, 1968.
- 14.6 The Kerala Pulses Dealers' Licensing Second Order, 1972.
- 14.7 The Kerala Cotton Textiles (Controlled Cloth) Dealers' Licensing Order, 1975.
- 14.8 The Kerala Edible Oilseeds, Edible Oils and Babyfood Dealers' Licensing Order, 1975
- 14.9 The Kerala Tea (Registration of dealers and Declaration of Stocks) Order, 1983.
- 14.10 The Kerala Rationing Order, 1966.

15 Madhya Pradesh

- 15.1 Madhya Pradesh Essential Commodities (Display and Regulation of Prices) Order 1977
- 15.2 Madhya Pradesh (Food Stuffs) Pulses Supply Restriction Scheme, 1991.
- 15.3 Madhya Pradesh Scheduled Commodities Dealers (Licensing and Restriction on Hoarding) Order, 1991.
- 15.4 Madhya Pradesh Motor Speed and High Speed Diesel Oil (Licensing and Control) Order, 1980.
- 15.5 Madhya Pradesh Kerosene (Restriction on Use and Maximum Price Control) Order, 1993.
- 15.6 Madhya Pradesh Rice Procurement (Levy) Order, 1970.

16 Maharashtra

- 16.1 The Maharashtra Scheduled Articles (Display and Marking of Prices), Order, 1966.
- 16.2 The Maharashtra Kerosene Dealers Licensing Order, 1966.
- 16.3 The Maharashtra Foodgrains Rationing (Second) order, 1966.
- 16.4 The Maharashtra Scheduled Articles (Display of Stocks and Prices by Wholesale Dealers) Order, 1969.
- 16.5 The Maharashtra Scheduled Commodities (Regulation & Distribution) Order, 1975
- 16.6 The Maharashtra Catering Establishments (Display and Marking of Prices), Order, 1977.
- 16.7 The Maharashtra Scheduled Commodities Retail Dealer's Licensing Order, 1979.
- 16.8 The Maharashtra Levy Sugar (Regulation & Distribution) Order, 1981.
- 16.9 The Maharashtra Cattle Fodder (Transport Control) Order, 1985.
- 16.10 The Maharashtra Scheduled Commodities Wholesale Dealers Licensing Order, 1998.
- 16.11 The Maharashtra Sugar & Khandasari Retail Dealers (Storage Control) Order, 1992.

17 Manipur

- 17.1 Nil

18 Meghalaya

- 18.1 The Meghalaya Cotton Cloth and Yarn Dealers Licensing Order, 1973.
- 18.2 The Meghalaya Food (Restriction on Service of Meals by Catering Establishments) Order, 1975.
- 18.3 The Meghalaya Foodgrains (Licensing and Control) Order, 1985.
- 18.4 The Meghalaya Food stuff (Distribution) Control Order, 1976.
- 18.5 The Meghalaya Food stuff (Prohibition of withholding from sale) Order, 1976.

- 18.6 The Meghalaya Food stuff (Display of prices by catering establishment) Order, 1982
- 18.7 The Meghalaya Guest Control Order, 1973.
- 18.8 The Meghalaya Kerosene (Licensing and Distribution) Control Order, 1988.
- 18.9 The Meghalaya Liquefied Petroleum Gas (Regulation for sale and Distribution) Order, 1988.
- 18.10 The Meghalaya Pulses, Edible Oilseeds and Edible Oils (Licensing and Control) Order, 1979.
- 18.11 The Meghalaya Rice (Prohibition of use of Rice for distillation of liquor) Order, 1974
- 18.12 The Meghalaya Roller Flour Mills and Chakki Mills Wheat-products (ex-mill) Price Control Order, 1980.
- 18.13 The Meghalaya Scheduled Article (Display and Marketing of Prices Order) 1975.
- 18.14 The Meghalaya Sugar Dealers Licensing Order, 1973.
- 18.15 The Meghalaya Vanaspati Dealers Licensing Order, 1974.

List of Essential Commodities presently existing in the Essential Commodities Act, 1995. Declared under Clause (a) of Section 2 of the Act*

- 1. Cattle fodder, including oilcakes and other concentrates.
- 2. Coal, including coke and other derivatives.
- 3. Component parts and accessories of automobiles.
- 4. Cotton and woollen textiles.
- 5. Drugs.
- 6. Foodstuffs, including edible oilseeds and oils.
- 7. Iron and Steel, including manufactured products of Iron & Steel.
- 8. Paper, including newsprint, paperboard and strawboard.
- 9. Petroleum and Petroleum products.
- 10. Raw Cotton, either ginned or unginned and cotton seed.
- 11. Raw Jute.

Declared as essential through notification under sub-clause (xi) of clause (a) of Section 2 of the Act.

- 12. Jute textiles.
- 13. Fertilizer, whether inorganic, organic or mixed.
- 14. Yarn made wholly from cotton.
- 15. Exercise Books.
- 16. Insecticides, Fungicides, Weedicides and the like.
- 17. (i) Seeds of food crops and seeds of fruits and vegetables, (ii) Seeds of cattle fodder and (iii) Jute seeds.
- 18. Onion.

* Reproduction of Annexure-V from the report Inter Ministerial Task Force on Agricultural Marketing Reforms, 2001 constituted by the Ministry of Agriculture, Government of India.

Annexure IV

**NUMBER OF WHOLE SALE, RURAL PRIMARY & REGULATED MARKETS IN
INDIA (Final) AS ON 31.03.2011**

Sr.	STATE/U.TS	NUMBER OF MARKETS			REGULATED MARKETS		
		Whole - Sale	Rural Primary	Total	Principal	Submarket Yards	Total
1	Andhra Pradesh	329	576	905	329	576	905
2	Arunachal Pradesh	6	63	69	16	113	129
3	Assam	405	735	1140	20	206	226
4	Bihar *	325	1469	1 794	* APMR	Act	Repealed
5	Jharkhand	205	1603	808	28	173	201
6	Goa	4	24	28	1	-	8
7	Gujarat	207	129	336	196	218	414
8	Haryana	284	189	473	106	178	284
9	Himachal Pradesh	42	35	77	10	38	48
10	Jammu & Kashmir	26	8	34	APMR	Act	not yet
11	Karnataka	504	730	1234	152	352	504
12	Kerala	348	1014	1362	APMR	Act	not enacted
13	Madhya Pradesh	241	1321	1562	241	276	517
14	Chhattisgarh	73	1132	1134	73	112	185
15	Maharashtra	880	3500	4380	299	581	880
16	Manipur	20	98	118	APMR	Act	not enacted
17	Meghalaya	35	84	119	35	-	2
18	Mizoram	10	105	115	APMR	Act	not
19	Nagaland	19	174	193	18	Nil	18
20	Orissa	398	1150	1548	45	269	314
21	Punjab	488	115	603	139	349	488
22	Rajasthan	431	312	743	129	302	431
23	Sikkim	7	12	19	1	-	1
24	Tamil Nadu	300	677	977	277	15	292
25	Tripura	84	554	638	21	-	21
26	Uttar Pradesh	584	3464	4048	249	356	605
27	Uttarakhand	36	30	66	25	33	58
28	West Bengal	279	2925	3204	43	641	684
29	A & N Island	0	0	0	APMR	Act	not enacted
30	Chandigarh	1	0	1	1	-	1
31	D&N Haveli	0	8	8	APMR	Act	not enacted
32	Daman & Diu	0	2	*5	Reported	Nil	
33	Delhi	30	0	30	8	13	21
34	Lakshadweep	0	0	0	APMR	Act	not enacted
35	Puducherry	9	0	9	4	5	9
	Total	6534	21238	27777	2433	4813	7246

Note: -- * Bihar Agril.Producc Marketing (Regulation) Act Repealed from 1" September,2006,
In West Bengal sub yards include cold storages and hence figures of total regulated markets and
wholesale markets are not comparable.
All principal regulated markets are wholesale markets, whereas sub market yards may / may not
be a wholesale market as it also includes some of Rural Primary Markets notified for regulation.

Annexure V

List of offices visited and officers interacted:

I The Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, Krishi Bhavan, New Delhi-110001

1. Office of the Secretary
2. Shri R.K.Tiwari, IAS Joint Secretary, Central Registrar& Member Convenor, Committee of State Ministers in charge of Agriculture & Marketing to promote Reforms, 2011
3. Mr. Sanjeev Chopra, IAS Joint Secretary, National Horticultural Mission
4. Shri P.Sampath, Director (Coopn)
5. Dr. V.K. Verma, Director, Crop Insurance and MPS Section and CPC
6. Shri D.N. Thakur, Director, Credit Division
7. Shri Sukumar, Under Secretary

II State Governments

1. Mr. Hirdyesh Mohan, IAS Agriculture Secretary, Govt. of West Bengal

III National Cooperative Development Corporation, Ministry of Agriculture, Department of Agriculture & Cooperation, Ministry of Agriculture, 4, Siri Institutional Area, Hauz Khas, New Delhi-110016

1. Shri C.B. Paliwal, IAS Managing Director
2. Shri P.K. Chaudhuri, Chief Director (P&C) and CPIO

IV Warehousing Development and Regulatory Authority, 'Warehousing Bhawan' 4/1, Siri Institutional Area, August, Kranti Marg, Hauz Khas, New Delhi-110016

1. Shri Dinesh Rai, IAS (Retd), Chairman

V CUTs Institute for Regulation and Competition (CIRC), GKI, New Delhi

1. Dr. Navneet Sharma, Director

**VI Directorate of Marketing & Inspection , Department of Agriculture & Cooperation,
Ministry of Agriculture, A-Block, CGO Complex, NH-IV, Faridabad (Haryana) -
121 001**

1. Shri B.K. Prusty, Assistant Agricultural Marketing, Adviser
2. Shri S.K. Singh, Dy. Manager

Annexure VI

List of Reports/ Papers Referred

1. Competition Assessment Toolkit (English) Volume 1- Competition Assessment Guidance 2010- Competition Law & Policy (OECD)
2. Competition Assessment Toolkit (English) Volume 2- Competition Assessment Guidance 2010-- Competition Law & Policy (OECD)
3. Agriculture Policy: Vision 2020- Indian Agricultural Research Institute, New Delhi
4. Agricultural Sector and Competition Policy I Colombia- Ricardo Arguello C. and Maria clara Lozano O de Z- August 2007
5. National Policy For Farmers-2007 –Department of Agriculture & Cooperation, Ministry of Agriculture, GOI
6. Rashtriya Krishi Vikas Yojana (RKVY)
7. Towards a Functional Competition Policy for India-Competition, Investment and Economic Regulation (CCIER)
8. Report of the Working Group on Competition Policy- Planning Commission, Government of India-February 2007
9. Time for a Functional Competition Policy and Law in India-*Mainstreaming Competition Principles into Policy and Legal Framework is Pro-development* by Pradeep S Mehta and Manish Agarwal-CUTS International-January, 2009
10. Marketing Infrastructure & Agricultural Marketing Reforms - *Expert Committee Report, 2001*
11. Marketing Infrastructure & Agricultural Marketing Reforms – *Report of Task force on Agriculture Reforms, 2000*

12. *Uttar Pradesh Krishi Utpadan Mandi Manual* by B.D. Mandhyan Senior Advocate, High Court, Allahabad and Manav Chopra Author of U.P. Kshetra Panchayat & Zila Panchayat Manual etc, - 1964
13. *Australian Centre for International Agricultural Research- Final Report – Facilitating efficient agricultural markets in India: an assessment of competition and regulatory reform requirements-August 2011*
14. *CCS Guidelines on Competition Impact Assessment for Government Agencies, 2008*
15. Summary of First report of Committee of State Ministers, In – charge of Agriculture Marketing to Promote Reforms, April, 2011
16. Agriculture Markets in India: Implications for Competition by Ramesh Chand
17. Facilitating Efficient Agricultural Markets in India: An Assessment of Competition and Regulatory Reform Requirements
18. National Development Council (NDC) Report on Agriculture and Related Issues 2006
19. A Comprehensive National Competition Policy by Professor Allan Fels, AO, July, 2008
20. Model Rules: The State Agricultural Produce Marketing (Development & Regulation) Rules, 2007
21. Annual Report 2008-2009- Department of Agriculture & Cooperation, Ministry of Agriculture, Government of India
22. Annual Report 2010-2011- Department of Agriculture & Cooperation, Ministry of Agriculture, Government of India
23. Annual Report 2009-2010- National Agricultural Cooperative Marketing Federation of India Ltd.
24. Union Budget Speech 2011-12 (Agricultural Sector related)
25. Indian Economic Survey 2010-11, Agriculture and Food Management
26. National Cooperative Development Corporation (In house Paper)- XII Five Year Plan (2012-13 to 2016-17) in respect of Restructured Central Sector Scheme for assistance to NCDC Programmes for Cooperative Development.
27. National Cooperative Development Corporation (In house Paper)- Note on the Activities and Performance of National Cooperative Development Corporation.

28. The Warehousing (Development and Regulation) Act, 2007-The Gazette of India
29. Warehouse Manual for Operationalizing of Warehousing (Development & Regulation) Act, 2007 (37-2007)- Warehousing Development and Regulatory Authority, New Delhi
30. Report of Working Group on Warehousing Development and Regulation for the Twelfth Plan Period (2012-17) Government of India, Planning Commission, New Delhi-(October 2011)
31. The World Bank Report on Agriculture and Achieving the Millennium Development Goals
32. World Food Summit 2008 Declaration of the High Level Conference on World Food Security: The Challenges of Climate Change and Bioenergy.
33. World Development Report- Agriculture for Development: The World Bank
34. Implementing Agriculture for Development: World Bank Group Agriculture Action Plan 2010-2012, July 2009
35. International Assessment of Agricultural Knowledge Science and Technology for Development,2009, Global Report, Melntyre Beverly et.al, USA, Washington DC.