

A vertical photograph of a tree trunk with small white flowers and brown fruits. The tree trunk is dark brown and textured. Small white flowers are clustered along the trunk, and several brown, round fruits are visible at the bottom. The background is dark and out of focus.

**12**  
**Legislation and  
Institutional  
support**

## Legislation and Institutional Support

### Introduction

Legislation and Institutional Support is looked after by the Policy and Law (PL) Division in the Ministry through the following Schemes.

- ◆ Part of Plan Scheme “Assistance for Abatement of Pollution, Environment Policy & Law” and
- ◆ Part of Plan Scheme “Establishment of Environment Commission and Tribunal”

### Objectives

The brief objectives of these schemes are

- ◆ Formulation of policies relating to environment
- ◆ Enactment / amendment of environmental legislations
- ◆ Formulation of Ministry’s views on the following matters relating to environment
  - ◇ Private Member’s Bill
  - ◇ Draft Bills of the State Governments
  - ◇ Policy documents / bills received from Central Ministries / Departments
  - ◇ Trade and Environment issues relating to different multi-lateral/regional/ bilateral agreements
- ◆ Providing Inter Ministerial Consultative forum for adoption of a common position on various Trade and Environment issues in negotiations.
- ◆ Building awareness about eco friendly products among consumers and manufacturers through Eco Mark Scheme.

### Progress / Activities undertaken during the year

#### Environment Policy and Legislation

Development of Legislation and Policy is a

continuous process. Changing circumstances, judicial interpretations, unanticipated flaws and differing values require continuing assessment of the effectiveness of the policy and legislative framework. Following major initiatives were taken by the Ministry in this direction.

#### Formulation of the National Environment Policy (NEP), 2006

Formulation of a National Environment Policy (NEP) to harmonize the demands of development and environment was identified as a Thrust Area for the Ministry as a follow up to the National Development Council meeting on December 21, 2002. In pursuance of this decision, the NEP, 2006 was formulated by the Ministry. It was approved by the Union Cabinet on May 18, 2006. The policy looks at the key environmental challenges, their causes and impacts, objectives, principles underlying policy action, and strategies and (indicative) actions to realize the objectives, and mechanisms for implementation and review. It is intended to mainstream environmental concerns in all development activities and relevant sectoral policies.

It is intended to be a guide to legislation, action plans, programmes and projects for environmental conservation and it is expected to effectively operationalize the constitutional mandate to provide a clean environment and to be a statement of India’s commitment to making a positive contribution to international efforts. The dominant theme of the Policy is that while conservation of environmental resources is necessary to secure livelihoods and the well-being of all, the most secure basis for conservation is to ensure that people dependent on particular resources obtain better livelihoods from the fact of conservation, than from degradation of the resource.

NEP, 2006, both in Hindi and English is available on Ministry’s website.

### Draft legislation for implementing 186<sup>th</sup> Report of the Law Commission of India

The Law Commission in its 186<sup>th</sup> Report, has *inter-alia* recommended establishment of 'Environment Courts' in each State, consisting of judicial and scientific experts in the field of environment for dealing with environmental disputes besides having appellate jurisdiction in respect of appeals under the various Pollution Control Laws. The commission has also recommended repeal of the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997. After examining the Report and discussing the modalities in several consultations meetings, the Ministry has decided to implement the recommendations of the Law Commission with some modifications. The Ministry is in the process of preparing a draft legislation for the purpose in consultation with the Ministry of Law and Justice.

### Labeling of Environment Friendly Products

The concept of eco-labeling is to encourage environment friendly commodities in the market. With a view to providing accreditation and labeling for household and other consumer products which meet certain environmental criterion along with standard quality requirements of the Indian Standards Institute (now BIS) for that product, a scheme for labeling of Environment Friendly Products known as 'ECOMARK' was launched in 1991.

This is a voluntary scheme. The criteria are based on the cradle-to-grave approach or life cycle analysis. The scheme is based on product-specific and product-general criteria. It operates through a three-tier system. An Inter-Ministerial Committee in the Ministry known as 'Steering Committee' determines the categories of products which need to be brought under the purview of the ECOMARK Scheme. Thereafter, a Technical Committee in CPCB develops the criteria for each product category for consideration of the Steering

Committee. Once the criteria are finalized, BIS translates the product specific specifications into Indian Standards. BIS is also responsible for testing and certification of the products for Ecomark. The manufacturers of the products seeking ECOMARK have to pay the prescribed license fee to BIS for certification and use of the ECOMARK along with the ISI Mark which is initially awarded for one year on a renewable basis.

The ECOMARK Scheme is not yet very popular amongst manufacturers. Out of the 17 product categories for which criteria has been notified by the Ministry, licenses for only three product categories have so far been obtained by 12 manufacturers. The scheme is being reviewed with a view to introduce necessary changes for its revival keeping in view the procedures in other countries.

### Capacity building in the field of Environmental Law

The Ministry continued to encourage activities for increasing awareness and capacity building in the field of environmental legislations. Financial support was provided to various organizations for relevant studies, trainings, seminars, and workshops focused on different aspects of Environment Policy and Law.

### State Legislations/ Private Member's Bill relating to environment

The Private Members' Bills relating to Environmental Legislations were processed and wherever required, approval of the President of India was obtained for introduction/consideration of such Bills. Ministry's views on the Bills were submitted to the Cabinet Committee on Parliamentary Affairs.

As regards the draft Bills relating to environment received from the State Governments, views of the Ministry on the ' Maharashtra SEZ and Designated Area Bill, 2006' was furnished. Similarly, comments on the relevant draft policies of other Ministries were also furnished.

## Trade and Environment

### Introduction and Objectives

The issue of 'Trade and Environment' has been of greater significance since the beginning of the 1990s on account of a number of factors, both domestic and international such as;

- ◆ India's present economic liberalization policy;
- ◆ the increasing importance of the environment as a factor influencing market access and export competitiveness;
- ◆ the impetus generated by the United Nations Conference on Environment and Development in 1992;
- ◆ the increased emphasis on the sustainable use and management of natural resources in India's Five Year Plans;
- ◆ inclusion of environment in the international trade agenda and in the work of the WTO;
- ◆ the increased awareness of the trade and development implications of Multilateral Environmental Agreements (MEAs);
- ◆ the emergence of environment related international standards prepared by the International Organization for Standardization (ISO); and
- ◆ the growing recognition that there is a need for an integrated examination of trade, environment, technology, finance, investment, and sustainable development.

The main objectives of the scheme is to facilitate formulation of a common position of the Government on Trade and Environment issues in negotiation through Inter-Ministerial consultations and increasing awareness of the complex linkages between trade and environment and capacity building of various target groups (Government officials, industrial managers, export houses, industrial associations, academicians, NGOs etc).

### Progress of Activities

An Inter-Ministerial Consultative Group (IMCG) on Trade and Environment set up by Ministry in February 2004 was reconstituted in 2005 for two years in view of the urgent need for an inter-ministerial Consultative Mechanism to develop common positions for multilateral negotiations in respect of various issues at the interface of trade and environment.

The IMCG is co-chaired by Secretary (E&F) and Secretary (Commerce). Other members of the Group are representatives of the concerned Ministries like Agriculture, Health, DST, DBT, MEA etc., Member Secretaries of different Consultative Groups in Ministry are AS (Commerce), AS(CC) & AS&FA MoEF, JS/ Advisor handling the work of Trade and Environment in the Ministry is the Member Secretary of the Group.

The Group has identified four Generic issues for studies:

- ◆ Inter relationship between the MEA and WTO regimes,
- ◆ A consistent interpretation of the precautionary principle / approach in application to different agreements,
- ◆ Due process and transparency in standard settings environment /safety, and
- ◆ Cluster of Intellectual Property Rights(IPRs) issues like traditional knowledge.

Expert Groups consisting of experts in the areas of environmental economics, environmental law, relevant scientific disciplines, International negotiations have been set up on each of the four generic issues. Expert Group II & III have been set up by Ministry on January 10, 2005 and Group I &IV were set up by Ministry of Commerce and Industries. Progress made by these Groups are reported to the IMCG as well as to the concerned Ministries.

### The Environmental Commission and Tribunal Scheme

The National Environmental Tribunal Act, 1995 provides for strict liability for damages from any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accidents with a view to giving relief and compensation for damages to persons, property and

environment and for matters connected therewith or incidental thereto. The Act has not been enforced as yet.

The Law Commission, in its 186<sup>th</sup> Report, has recommended repeal of this Act and incorporation of the provisions relating to its jurisdiction and power in the proposed legislation on Environmental Courts. A draft legislation on 'Environment Tribunal' is being prepared in consultation with the Ministry of Law & Justice.