

**REPORT
OF
COMMITTEE ON LEGISLATION
PLANTATION SECTOR
17TH SEPTEMBER, 2007**



Chaired by

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**DEPARTMENT OF COMMERCE
MINISTRY OF COMMERCE & INDUSTRY
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NEW DELHI**

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CHAPTER - I

INTRODUCTION

SOCIO-ECONOMIC PROFILE OF THE TEA SECTOR IN THE CONTEXT OF AMEMNDMENTS PROPOSED TO THE PLANTATION LABOUR ACT, 1951

1.0 The salient features distinguishing the plantations in India are their structural concentration (large estates and small holdings) and market orientation. The bulk production of rubber (87%) and coffee (60%) come from the small holder sector whereas in tea nearly 80% is accounted for by the corporate sector. The growth in production of these commodities during the last 10 years has been phenomenal due to increase in both area under the crop as well as productivity. In the case of the rubber sector, productivity in India is highest in the world. Tea, Coffee and Rubber crops generate significant foreign exchange through exports (15% of total agricultural export earnings) although they occupy only about 1% of the total cropped area in the country.

1.1 Currently about a little over **43.94** lac growers and **202.00** lac farm workers derive their livelihood from ancillary activities associated with production, value addition and marketing.

1.2 Around **1.28** lac small tea growers and **0.17** lac medium and big tea enterprises are directly involved in the tea planting activities. The livelihood of around **13** lac workers and their dependents, depend on the success/failure of Indian Tea Plantation Industry.

1.3 India produces approximately 950 million kg of tea annually and is the largest producer of black tea in the world. About **27%** of the world's tea is produced in India. India is also the largest consumer of tea accounting for about 22% of total world consumption. Tea production is both a land-intensive as well as a labour- intensive enterprise. It has both agricultural and a manufacturing dimension.

1.4 Tea plantations provide employment to **more than** a million workers who comprise immigrant workers and their descendants. For example, the workers in the tea gardens of Tamil Nadu are not the original residents of these regions but are migrants from Karnataka and other nearby regions. The labourers of Assam and West Bengal are people who migrated from Central India and Nepal. These workers have over the years settled down in the tea gardens and now have little or no contact with their places of origin.

1.5 More than 50% of the workers in tea estates are women. The reason perhaps for this was that plantations are historically linked with colonialism. The areas in which the plantations came to be located were remote and sparsely populated. During the colonial period, families were employed rather than individuals, thus absorbing women in the labour force. This also saved recruitment costs.

1.6 The Indian Tea Industry today is experiencing a crisis arising out of a high degree of competition in international markets, resulting in stagnation and/or decline in prices. On the other hand yields of the tea gardens, have declined due to ageing of tea bushes which has also resulted in deterioration in quality leading to further decline in prices. Due to these factors the industry is experiencing a phase of declining profitability. This has resulted in the decline of agricultural income tax to the States, as for example, Agricultural Income Tax (AIT) is one of the important tax revenues for the tea growing States. In Assam, which accounts for more than 52% of all India tea production, the AIT collection had drastically declined from Rs.103.26 crore in the profitable year of 1998-99 to Rs.4.09 crore in 2003-04. Similarly, in Tamil Nadu, the AIT collection fell from Rs.39.40 crore in 1998-99 to a meagre sum of Rs.1.35 crore in 2003-04. This prompted the State Government of Tamil Nadu to scrap the tax altogether.

1.7 India produces 27% of total world tea. Nearly 80% of the tea produced is consumed within India. The organized sector comprising little above 1600 tea estates, with a tea area of above 10.12 ha. (25 acres) per garden, accounts for about 80% production of tea. **The number of small growers with a tea area of not more than 10.12 hect. is around 1.27 lac. The total tea area of such small tea growers is 1.10 lac hect. accounting for 21% of the total tea growing areas of India. The average holding of such small growers is 0.67 hect.**

1.8 This report is therefore confined to an analysis of the impact of the provisions of the PLA on the tea sector in view of the burden on the large tea estates to provide adequate social security cover to the labour engaged on the estates, as mandated by the Act. Half of these tea estates are located in the North Eastern State of Assam, a quarter in West Bengal and the rest in South India. The state-wise and size-wise distribution is as follows:

Distribution of production of tea- (2005-06)

- Assam 476 million kg (51.2%)
- West Bengal 216 million kg (23.2%)
- Tamil Nadu 155 million kg (16.7%)
- Kerala 67 million kg (7.2%)
- Others 16 million kg (1.7%)

Size-wise distribution of tea estates - (2005-06)

- Tea estates greater than 100 hectares - 1079 gardens (74.5% area)
- Greater than 10.12 hectares -1614 gardens (78.8% area)
- Upto 10.12 hectares (small growers) - 1,27,366 (21.2% area)

1.9 As per the estimates made by an Inter-Ministerial Committee set up by the Ministry of Labour & Employment, the social sector cost component alone works out to about **Rs.7.20** per kg of made tea. Concerned by the high cost of social services to be provided by the tea

industry particularly, in the scenario of falling prices of tea in the recent years, the industry has been making demands for rationalisation of the provisions in the Plantation Labour Act.

1.10 The Stakeholders' Conference on Tea held on 16-17 September, 2004, inter alia, observed that there is a plethora of Central and State legislative measures that are applicable to the tea industry and that these require review by a Committee to be set up by the Govt. of India in consultation with the State Governments to examine whether any impediments exist in the functioning of the tea industry as a consequence of the application of these laws.

1.11 Pursuant to this, a Committee was constituted on 5.3.2007 under the Chairmanship of Additional Secretary (Plantations), Department of Commerce in the Ministry of Commerce and Industry to streamline, rationalize and harmonize the applicable laws with the objective of giving fillip to faster development of the tea industry. The other members of the Committee include Chairman, Tea Board, Commissioner & Secretary of the tea growing states of Assam, West Bengal, Tripura, Kerala, Tamilnadu, Uttaranchal and also a member of the Tea Board representing persons employed in Tea Estates. Director (Plantations) is the Member-Secretary of the Committee.

The constitution of the Committee and its terms of reference are given at **Annexure**.

CHAPTER II

Background

PLANTATION LABOUR ACT, 1951

A PREVIEW

2.0 Plantations are economic entities connected historically with certain crops and certain countries. A plantation is a large tract of mainly monoculture, growing a species of plant such as tea, coffee or rubber having a long gestation period.

2.1 The Plantation Labour Act, 1951 (PLA) provides for the welfare of plantation labour and regulates the condition of work in plantations. The term 'Plantation' has been defined under the Plantations Labour Act, 1951 to mean any plantation to which the Act, whether wholly or in part, applies and includes offices, hospitals, dispensaries, schools and other premises used for any purpose connected with such plantation. Section 1(4) of the Act applies to any land used or intended to be used for growing tea, coffee, rubber, cinchona and cardamom which admeasures 5 hectares or more and in which fifteen or more persons are employed or were employed on any day of the preceding twelve months.

2.2 This definition does not include any factory on the premises to which the provisions of the Factories Act 1948 (63 of 1948) apply.

2.3 The Plantation Labour Act is administered by the State Governments. The State Governments are however, free to declare any plantation land less than 5 hectares or less than 15 persons to be covered by the Act. It applies to all the plantation workers whose monthly wages do not exceed Rs.750/- per month.

2.4 In every Plantation covered under the Act medical facilities for the workers and their families are to be made readily available as may be prescribed by the State Government.

2.5 The Act provides for setting up of canteens, creches, recreational facilities, suitable accommodation and educational facilities for the benefit of plantation workers and their families in and around the work places in the plantation estate.

2.6 The Act provides that no adult worker and adolescent or child shall be employed for more than 48 hours and 27 hours respectively a week, and every worker is entitled for a day of rest in every period of 7 days.

SOCIAL SECURITY PROVISIONS UNDER THE PLA, 1951

2.7 The conditions of plantation labour are governed by the Plantations Labour Act and the rules promulgated by the state governments. The PLA is unique in the fact that it requires the employer to provide the workers with medical facilities, housing, sickness and maternity benefits and other forms of social security measures.

2.8 The Act applies in the first instance to tea, coffee, rubber, & cinchona and cardamom plantations, but the state government may apply it to any other plantation. Under statutory social commitments various statutory and non-statutory benefits are provided to plantation labour. Non-statutory benefits include fuel, roads and concessional ration. The plantation industry partakes the characteristics of both agriculture and industry and, is therefore, subjected to taxation under the Central Income Tax as well as Agriculture Income Tax besides other levies and taxes. AIT is presently confined to plantation crops only.

2.9 Under the Plantation Labour Act, 1951, the following provisions relate to the social sector:

(a) **Housing facility** : Section 15 of the PLA requires every employer to provide and maintain necessary housing accommodation. Further, rule 65 of the Assam Plantation Labour Rules, 1956 states that houses shall be allotted on the basis of one house per worker. Similar provision has also been incorporated in the West Bengal Plantation Labour Rules, 1956.

(b) **Medical facility**: Section 10 of the PLA, 1951 stipulates that for every plantation, there shall be provided and maintained so as to be readily available such medical facilities for the workers and their families. Rule 35 of the Assam Plantation Labour Rules, 1956 also requires that there shall be two types of hospitals in plantations viz. garden hospital and group hospital. Similar provision has also been incorporated in the West Bengal Plantation Labour Rules, 1956.

(c) **Educational facility**: Section 14 of the PLA stipulates that the state government may make rules requiring every employer to provide educational facilities for the children between ages of 6 and 12, of the workers employed in any plantation where work force exceeds 25 in number. The Assam Plantation Labour Rules, 1956 (Rule 52) also requires that every employer shall provide and maintain a primary school or schools for imparting primary education to the children of the plantation workers. Further, as per Rule 55 of the said rules, the employer of the plantation shall appoint one teacher for every 40 children or part thereof on the roll of the primary school. Rule 57 stipulates that no fee shall be charged from the workers' children attending the primary school.

It may be mentioned that the concerned state Govts. have been providing primary education facilities in the tea growing areas of South India, West Bengal and Cachar in Assam State. However, the garden owners are providing educational facilities in the tea growing areas of Assam valley except Golaghat district.

Similar provision has also been incorporated in the West Bengal Plantation Labour Rules, 1956.

(d) **Drinking water:** Section 8 under the PLA stipulates that in every plantation, effective arrangement shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers. Rule 8 of the Assam Plantation Labour Rules, 1956 provides for drinking water in the tea growing areas of Assam. Similar provision has also been incorporated in the West Bengal Plantation Labour Rules, 1956.

2.10 The issue of providing of the various facilities under the PLA has been most contentious. The demand of the industry has all along been to do away with or dilute the provisions of PLA in respect of these facilities. The present exercise has also emanated from the demand of Indian Tea Industry Association as stated earlier in this respect.

2.11 The Committee therefore, examined this issue in greater detail. In fact, in the interactions, the Committee had with the industry, the latter was ready to accept all other provisions of the various applicable laws but was insistent for review of social sector provisions of PLA. The industry feels that in the current price scenario, the tea industry is not going to survive for long if the burden of the social costs is not substantially reduced.

EARLIER STUDIES OF PLA

A) Inter Ministerial Committee of 2002 – Main Recommendations

2.12 An Inter Ministerial Committee constituted by the Ministry of Labour in 2002 examined the Plantation Labour Act and suggested the following steps with the objective of keeping the plantations as a sound economic preposition.

- (a) Government of India and State Governments/local self-government should agree to bear 50% of the social and infrastructural cost under the Plantations Labour Act, while the industry should bear the remaining 50% of this cost. The 50% share to be borne by the Union and the State/ local self-government in the ratio of 40 : 10. The lower sharing of the expenditure for the States is recommended because of extremely difficult fiscal situation and having regard to the fact that plantation industry is primarily under

the purview of Union Government. The share of the Central Government should preferably be routed through the respective commodity boards.

- (b) The rate of maximum marginal agricultural income tax may be reduced to the level of the maximum marginal corporate income tax/central income tax.
- (c) The State Governments may be requested to take a holistic view and examine the taxation issues in totality and rationalize the plethora of enactments keeping in mind the financial health of the plantation sector. While doing so, the relevance of plantation tax in Kerala and salami in West Bengal need deeper examination.
- (d) The Central Board of Direct Taxes (CBDT) may be requested to issue a circular that the completed assessments will not be reopened by virtue of the retrospective amendment in section 80 HHC which was amended in 1999 but was given retrospective effect from 01.04.1992.
- (e) Rule 7 B of Income Tax Rules, 1962 may be amended so as to apply only to companies and also to any large grower as defined in Coffee Rules, 1955, from the purview of the Income Tax Rules, 1962.
- (f) Raising productivity level and general skill of all citizens is the responsibility of the State and not any particular sector. In the event of the State providing the welfare amenities to plantation estates, as are ordinarily available to citizens of the country, the relevant provisions in Plantations Labour Act, may be reviewed.
- (g) The Committee did not favour making any recommendations on provident fund dues, thereby disturbing the present arrangement. The Committee stated that considering the sensitivity of the problem and the interest of the workers, PF dues should be duly credited to the worker's account and the worker should get his dues on his retirement. Despite all the difficulties being faced by the management, there shall not be any relaxations regarding payment of PF and other statutory dues of workers. However, the Committee took note of the fact that the EPFO had recently set up a Committee. In this background, it suggested that this matter should be considered by the Committee in all its aspects.
- (h) In the contemporary world of competition, the product should be price competitive. It is, therefore, essential that wages should be linked to productivity in the tea, coffee or natural rubber sector.
- (i) Introduction of Value-Added Tax (VAT) has been under discussion at the highest level of Government for its introduction at the all India level. Different products will be put under different slabs. Since plantation crops are mass consumed items and are produced and consumed across several States, a uniform VAT at the lowest slab is recommended for the healthy growth of the industry.

B) West Bengal National University of Juridical Sciences - Suggestions and Recommendations

The Tea Board commenced this study in 2004 for suggesting appropriate amendments in the Plantation Labour Act in the light of weakening of tea plantations, economy. The University of Juridical Sciences made the following recommendations:

2.13 Social Security provisions in the PLA to be retained: It recommended that all the social security measures provided in the PLA be retained. These progressive measures have definitely played a crucial role in improving the standard of living of the plantation workers. As most of these workers belong to the weaker sections of the society and also considering the fact that around 50% of the workforce comprises of women, the continuation of these measures becomes all the more imperative. But at the same time one should not be oblivious to the fact that many of these measures like provision for housing and educational facilities are unique only to the plantation sector and the entire burden of providing these facilities is the sole responsibility of the employer. The exemplary role played by many gardens in this front for the last five decades has to be appreciated and given due credit to. But insistence on placing the entire burden on the employer would take the already crisis ridden industry to a worse position. For this reason a proper balance has to be struck between the interest of the employer and the worker.

2.14 Applicability of the Act to remain unchanged: At present the Act is applicable to any land used for growing tea, coffee, rubber, cinchona, or cardamom and any other plant which admeasures 5 hectares or more and in which 15 or more workers are employed on any day of the preceding 12 months. Further, the State Government has been given the power to extend the application of this Act to any other land measuring less than 5 hectors and employing less than 15 workers. Any change in this provision will be excluding a large number of workforce from the safety net provided by the Act. The extraordinary power given to the State Government should also be retained, as it is an effective method of preventing fragmentation of plantations in order to avoid the applicability of the Act.

2.15 Housing Facilities: PLA is the only social security legislation, which imposes a mandatory obligation on the employer to provide housing facilities. This is imposing a huge cost on the sector. The Inter- Ministerial Committee, which looked into this matter, has recommended a cost sharing between state and the employer. This recommendation has to be accepted and changes have to be made to Section 15 which imposes this duty.

2.15.1 As the existing housing schemes like the Indira Aawas Yojana, Gandhi Kutir Yojana etc. are not suited for the plantation labourers (since they are applicable only to SC/ST and persons below poverty line) it is suggested that there be a separate scheme tailor made to suit the requirements of plantation labourers where the cost instead of being completely borne by the government or the employer is divided between them. The possibility of providing loans to management from NABARD/HUDCO/Housing Boards may be considered.

2.15.2 This tailor made scheme has to be included as a schedule to the Act. It is recommended that Section 15 be amended in the following way:

1. *Every worker (including his family) residing in the plantation and every worker (including his family) who has put in six months of continuous service in such plantations and who has expressed a desire in writing to reside in the plantation shall be entitled for housing accommodation:*

- *Provided that the requirement of continuous service of six months under this clause shall not apply to a worker who is a member of a family of a deceased worker who, immediately before his death, was residing in the plantation.*

2. *Housing accommodation has to be provided in accordance with the scheme mentioned in Schedule I of this Act*

3. *It shall be the duty of the employer to maintain such housing accommodation.*

2.15.3 It is suggested that an appropriate scheme be framed in consultation with the representatives of the industry.

2.16 Medical Facilities: Section 10 of the PLA is imposing a statutory duty on the employer to provide medical facilities to the workers. As the statistics show this obligation is imposing a heavy financial burden on the industry. The Inter-Ministerial Committee recommendations as to cost sharing merits serious consideration. In this backdrop it is suggested that:

a. The salary and other allowances of the Medical Staff appointed in the hospitals (garden and group hospitals) and dispensaries be paid by the government. However, the cost of medicines and the maintenance of these hospitals should be borne by the employer. Following the example of aided schools, the power of appointment should be left with the employer.

Or in the alternative

- b. The Employee State Insurance Scheme (ESI) should be extended to the plantations. Such a scheme envisages compulsory State Insurance for providing benefits to the workers covered by it in matters of sickness, employment injury, maternity benefits etc.

2.16.1 If the recommendation as to the extension of the ESI facilities is accepted a notification under the Employees State Insurance Act, 1948 [section 1(5)] has to be issued making the provisions of this Act applicable to the plantation sector. In this event Section 10 can be deleted.

2.17 Educational Facilities: Section 14 of the PLA requires every employer to provide educational facilities as per the rules made by the State Governments. The Constitution (86th Amendment) Act 2002 has now made the right to education a Fundamental Right. Article 21A of the Constitution provides:

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

2.17.1 With the insertion of this Article the State has the primary duty in this regard. In many of the States under survey already this responsibility has been taken over by the State Governments. So it is suggested that Section 14 of PLA be retained in the present manner but changes have to be made to the rules. These schools can be run in the manner in which aided schools are run. The State government should pay the salary and the other benefits to the staff. The duty of maintenance will be on the employer subject to an annual maintenance grant to be provided by the State Government.

2.18 Amenities: Amenities like drinking water, streetlights, construction and maintenance of roads in the tea gardens should be taken over by the panchyats and other local bodies.

2.19 Child labour: The PLA does not stipulate a minimum age for a worker to be employed in any capacity in the plantations. The Child Labour (Prohibition and Regulation) Act 1986, which regulates the employment of children in the informal sector, stipulates 14 years as the minimum age of the employment, but this Act does not cover plantations. The PLA should be amended to specifically state that children below the age of 14 years should not be employed in the tea gardens. The originally enacted Section 24 of the PLA prohibited child labour in

plantations but with the enactment of Child Labour (Prohibition and Regulation) Act 1986 this provision has been deleted thus making child labour legal in the plantations. It is recommended that Section 24 be reintroduced in the PLA.

2.19.1 International pressure demands that appropriate labour standards be maintained in the tea industry. Organisations known as Labeling Organisations which categorise a product to have or have not complied with fair labour standards are convincing major consumers that they should purchase only those tea products that have the label of the concerned organisation. There has been a pressure to eliminate child labour from these organizations. Although the influence of these organizations at the moment may not be very significant nevertheless this is an important factor to be considered in order to be competitive in the world market and gain market access to different tea consuming countries. It is suggested that Plantations be certified to SA 8000 norms.

2.20 Definition of 'Worker' under PLA: At present, in order to get the benefits provided under the PLA, 1951 a person has to satisfy the definitional requirements of section 2(k) of the Act. The definition provides for a two-prong test. First, he or she has to be a person employed in a plantation for hire or reward, whether directly or through any agency to do any work, skilled, unskilled, manual or clerical. Second, he should not fall in any of the exclusionary clauses mentioned from clauses (i) to (iv). Clause (ii) provides for ceiling of wages. As per this clause only a person drawing monthly wages below Rupees seven hundred and fifty will be considered as a worker. All the stakeholders agree that this is not a realistic sum. So it is suggested that the ceiling that is put of Rs 750 in the definition of a 'worker' under section 2(k) of PLA should be done away with.

2.20.1 The definition of 'worker' under Section 2(k) of PLA should read as follows:

"Worker" means a person (including any member of the medical staff) employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical but does not include –

(i) a medical officer employed in the plantation;

(ii) any person employed in the plantation primarily in a managerial capacity or

(iii) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges or canals.

2.21 Penalties under the PLA: The penalty for different offences recognized in the PLA now is punishable with imprisonment for a term, which may extend to three months or with fine, which may extend to five hundred rupees or both. This should be amended and a minimum fine of Rs 5000 and maximum of Rs. 25000 should be prescribed as the penalty, and every subsequent violation of the same nature a minimum fine of Rs 10000 and where the violation continues additional fine of Rs. 500 per day till the violation continues has to be imposed. The term of imprisonment should also be enhanced to 6 months. Amendments should be made in Chapter VI of the Act to incorporate these changes.

2.22 Welfare Officers: Section 18 of PLA provides for appointment of Welfare Officers in every plantation wherein 300 or more workers are ordinarily employed. The statutory mandate to appoint Welfare Officers in plantations can be deleted since the Chief Inspector and Inspectors appointed by the State Government look into the compliance of the plantations with the PLA welfare provisions. The trade unions can effectively take up the cause of workers in case the management fails to provide the statutory welfare facilities as provided under the Act.

2.23 Cognizance of Offences: As per Section 39 of PLA the court can take cognizance of an offence under the Act only on the complaint of the Chief Inspector or with his previous sanction. It is suggested that this should be changed and the power to institute a complaint should be vested with the worker and registered trade unions in addition to the Chief Inspector or any person with his previous sanction in writing.

2.24 Limitation of prosecutions: The Limitation period for instituting a complaint should be increased from three/six months to one year. Amendment should be made to Section 40 to incorporate this change.

CHAPTER III

PREVALENT WAGE STRUCTURE AND SUPPLY OF FOODGRAINS AT CONCESSIONAL PRICE TO THE TEA GARDEN WORKERS OF NORTH INDIA

A. Wage Structure.

3.0 The wage rates of tea garden workers are generally fixed through bipartite agreement between the representatives of employers and employees of the tea gardens. However, in Kerala, the settlement wages are being fixed at minimum wage levels as stipulated under the Minimum Wages Act of the State. The details of wage rates in the major tea producing States are as follows:

(B) The daily wages for Adult (both Male and Female) and Non-adult worker employed in the tea plantations is given below:

North India

Plantation districts / States	Daily Wages (Rs.)		Agreement Date
	Adult	Increment	
North India			
Assam Valley (From 01.11.2005 to 31.12.2009)	51.10	w.e.f. 01.11.06 - 2.60 w.e.f. 01.15.07 - 3.70 w.e.f. 01.09.08 - 3.70	30.11.05
Cachar (From 01.04.2005 to 31.05.2006)	46.25		
Darjeeling (From 01.04.2005 to 31.03.2008)	48.40	1 st Year - 2.50 2 nd Year - 2.50 3 rd Year - 3.00	25.07.2005
Dooars (From 01.04.2005 to 31.03.2008)	48.40	1 st Year - 2.50 2 nd Year - 2.50 3 rd Year - 3.00	25.07.2005
Terai (From 01.04.2005 to 31.03.2008)	48.40	1 st Year - 2.50 2 nd Year - 2.50 3 rd Year - 3.00	25.07.2005
North Dinajpur (From 01.04.2005 to 31.03.2008)	48.40	1 st Year - 2.50 2 nd Year - 2.50 3 rd Year - 3.00	25.07.2005
Tripura			
2004	26.05		
2005	28.50	---	-----
2006	30.00		
2007	30.00		

South India

States	Worker	Basic (Rs)	D.A. (Rs)	Total (Rs)	w.e.f.
Kerala	Adults	34.72	43.32	78.04	01.04.2005
	Adolescent	26.04	43.32	69.36	
Karnataka	Adults	(The DA up to 2703 points have been merged with basic wages)		71.00	01.04.2005
	Adolescent			63.90	
Tamil Nadu a) Nilgiris	Rs. 72/- (Plus Attendance Bonus of Rs. 2/-)				01.10.2004
	b) Nilgiri-Waynad				
c) Anamallais	Consolidated pay of Rs.72/ per day and there is no time limit prescribed. The wage matter is pending before the Special Industrial Tribunal, Chennai.				01.01.2002

Note:

In addition to the aforesaid daily wages various other incentives are also available to the tea plantation workers including female workers by way of Plucking incentive, guaranteed time rate incentive etc., as per the general agreement, the details of which are not readily available and/or compiled.

3.1 The level of settlement wages in the States of Tamil Nadu, Kerala and Karnataka are higher than the tea growing States of North India particularly compared to the State of Assam, West Bengal and Tripura. **Such lower level of wage rate in North India is due to providing of food grains at a concessional price by the employers in these States. Further, the employers of the State of Assam and West Bengal are providing fuel to the workers freely.**

3.2 Concessional ration is supplied to tea plantation workers and their dependants in Assam and West Bengal as a part of their negotiated wage package. Provision of food grains is not a statutory requirement under the Plantations Labour Act. In the absence of infrastructure in tea estate areas, the tea industry is being provided with food grain allocation by the FCI under the PDS Scheme for over 40 years. The food grain component has always been considered an immutable fixed component of the wage. The scale of food grains provided to the tea garden worker in three major tea producing States of North India is as follows:

Assam

Foodgrains	Rice (kg/week)	Wheat (kg/week)	Total (kg/week)
Adult Worker	1.63	1.63	3.26
Adult Dependent	1.22	1.22	2.44
Child	0.61	0.61	1.22

West Bengal

Foodgrains	Rice (kg/week)	Wheat (kg/week)	Total (kg/week)
Adult Worker	1.00	2.26	3.26
Adult Dependent	1.00	1.44	2.44
Child	0.50	0.72	1.22

Tripura

Foodgrains	Rice (kg/week)	Wheat (kg/week)	Total (kg/week)
Adult Worker	1.63	1.63	3.26
Adult Dependent	1.22	1.22	2.44
Child	0.61	0.61	1.22

3.3 The Committee explored the possibility of switching over to the cash system in place of current ration system in tea gardens of North India. It became clear that tea estate workers and their dependants of West Bengal, Assam and Tripura were provided with rice and wheat as per scale agreed upon by the employers and employees. According to **exercise undertaken** by the Tea Board, the total value of food grains **per worker per week** including their bonafide dependants worked out to Rs.66.66 in 1997 in the state of Assam. It had increased to Rs.87.78 in the year 2006. In the case of West Bengal, the total value of rice and wheat **per worker per week** was Rs.73.17 in 1997 and had increased to Rs. 84.63 in 2006. In Tripura total value of food grains supplied to tea garden workers **per worker per week** was Rs.103.47 in the year 2003 and had increased to Rs.111.54 in 2006. The details are as follows:-

(i)

<u>Assam</u>			
Year	Value of rice & wheat per worker per week (1)	Value of rice & wheat for bonafide dependant per worker per week (2)	Total value of rice & wheat i.e. Col.(1) + Col.(2) (3)
2003	24.65	55.34	79.99
2004	24.65	55.34	79.99
2005	27.04	60.72	87.76
2006	27.04	60.72	87.76
2007	27.04	60.72	87.76

(ii)

	<u>West Bengal</u>		
Year	Value of rice & wheat per worker per week (1)	Value of rice & wheat for bonafide dependant per worker per week (2)	Total value of rice & wheat i.e. Col.(1) + Col.(2) (3)
2003	24.00	55.67	79.67
2004	23.53	54.58	78.11
2005	25.61	59.02	84.63
2006	25.61	59.02	84.63
2007	25.61	59.02	84.63

(iii)

	<u>Tripura</u>		
Year	Value of rice & wheat per worker per week (1)	Value of rice & wheat for bonafide dependant per worker per week (2)	Total value of rice & wheat i.e. Col.(1) + Col.(2) (3)
2003	31.88	7159	103.47
2004	31.88	7159	103.47
2005	34.37	77.17	111.54
2006	34.37	77.17	111.54
2007	34.37	77.17	111.54

3.4 Based on the said exercise and considering the six working days in a week, Tea Board has also prepared a statement on state wise **settlement daily wage rate** and **daily cost** incurred towards supply of **only food grains** to tea garden workers separately for tea plantation districts of Assam Valley, Dooars & Terai and Tripura for the period 1997 to 2006 year wise. These are as under:-

Year	<u>Assam Valley</u>			<u>Dooars & Terai</u>			<u>Tripura</u>		
	Daily Settlement wage rate	Estd. Daily Cost For food grains	Total	Daily settlement wage rate	Estd. daily cost for food grains	Total	Daily Settlement wage rate	Estd. daily cost for food grains	Total
2003	48.50	13.33	61.83	45.90	13.28	59.18	26.50	17.25	43.75
2004	48.50	13.33	61.83	45.90	13.02	58.92	26.50	17.25	43.75
2005	51.10	14.63	65.73	48.40	14.11	62.51	28.50	18.59	47.09
2006	51.10	14.63	65.73	50.90	14.11	65.01	30.00	18.59	48.59
2007	54.80	14.63	69.43	53.90	14.11	68.01	30.00	18.59	48.59

3.5 In order to estimate the cost towards supply of food grain by the employers to the tea gardens workers of North India the present system of supply has been considered.

3.6 Under the present system, tea industry is allotted food grains through PDS quota under APL Scheme. Food Corporation of India (FCI) supplies food grains to tea garden employers at a rate fixed by FCI. In addition to such rate, the tea garden employers are required to bear the landed cost of such food grains which includes transportation and handling charges. Therefore, procurement price of such food grains is higher than the rate of supply price of FCI. Further, since the entire allotment is not provided by FCI and the shortfall is made up through open market purchase, the effective procurement price varies due to the variation in the prevailing market price and in general, such price is higher than the FCI price.

3.7 At present tea garden owners are supplying food grains at 54 paise per kg in Assam, 40 paise per kg in Dooars and Terai and 63 paise for rice and 54 paise for wheat in Tripura.

3.8 It is important to mention that two adult and two non-adult dependants totaling to three consumption units per tea garden worker are considered for the purpose of macro level analysis as suggested by Indian Tea Association. This means that each garden worker is eligible to receive 10.58 kgs $\{3.26+(2 \times 2.44)+(2 \times 1.22)\}$ of food grains in each week at a

concessional price. The amount for receiving 10.58 kgs of food grains paid by the tea garden workers in each week to the tea garden employers is worked out to be the following:

	Price paid to the workers for food grains per week per worker (in Rupees)	Price paid to the workers for food grains per worker per day (based on six working day in a week) (in Rupees)
Asam	5.71	0.95
West Bengal	4.23	0.71
Tripura	6.19	1.03

3.9 In addition of food grains tea garden workers of the state of Assam and West Bengal are provided with free fuel. The scale of fuel supplied to the tea garden workers is as under:

- In Assam, fire wood entitlement is 228 cft per annum per family.
- In West Bengal, the fire wood entitlement is 156.25 cft per annum per family or 715 kgs of coal per annum per family.
- The price of 228 cft fire wood in the State of Assam is reportedly Rs.1350/-. In West Bengal the price of coal per kg. is reportedly Rs.2.55 per kg. Considering that each family may have two tea garden workers and considering the above reported price, the price of fuels supplied freely by the tea garden owners to the tea garden workers works out to Rs.2.17 per worker per day in the State of Assam and Rs.2.92 per worker per day in the State of West Bengal. For such calculation, six working days in a week and 52 weeks in a year have been considered.

3.10 The wage rates in North India paid to tea garden workers with consideration of supply of food grains at a concessional price and/or fuels free of price for the year 2006 is illustrated below.

	Assam Valley	Cachar	Dooars & Terai	Tripura
Settlement Daily wage rate (in Rupees) Per worker	54.80	46.25	53.90	30.00
Add Daily estimated cost of supply of food grains Per worker (in Rupees)	14.63	14.63	14.11	18.59
Daily wage including cost of food grain without concession component Per worker..(in Rupees)	69.43	60.88	68.01	48.59
Less estimated amount received daily by employer from worker towards supply of food grain Per worker..(in Rupees)	0.95	0.95	0.71	1.03

Daily cost of food grain borne by the employer per worker (in Rupees)	13.68	13.68	13.40	17.56
Daily wage including cost of food grain borne by employer Per worker..(in Rupees)	68.48	59.93	67.30	47.56
Daily cost of fuel supplied freely Per worker by employer. ..(in Rupees)	2.17	2.17	2.92	Nil
Daily cost of food grain and fuel borne by employer per worker (in Rupees)	15.85	15.85	16.32	17.56
Total daily wage including cost of supply of food grain and fuel borne by employer Per worker. ..(in Rupees)	70.65	62.10	70.22	47.56
Estimated Production of made tea per labour based on 300 working days in a year (in kg.).	2.41	1.85	2.66	2.07
Estimated average daily number of labour per hect.	2.28	2.17	2.17	1.39
Per kg cost of food grain and fuel borne by employer (in Rupees per kg of made tea)	6.58	8.57	6.14	8.42
Daily cost of food grain and fuel borne by employer (in rupees per hect.)	36.14	34.39	35.41	24.41

3.11 The total **annual** amount borne by the employer in the State of Assam, West Bengal and Tripura works out to as follows (based on the labour, production, area for the year 2004):

	<u>Assam</u>	<u>West Bengal</u>	<u>Tripura</u>
Estimated average daily number of labour	617518	262672	11518
Production of made tea (th kgs)	435649	214541	7168
Area in Hect.	271768	114003	8268
Per kg cost of food grains borne by employer (Rs. Per kg of made tea)	5.68	5.04	8.48
Daily cost of food grain (in rupees per hect)	31.19	29.08	24.41
Daily cost of food grain borne by employer . (in rupees per worker)	13.68	13.40	17.56
Estimated total amount to be borne by the employer based on per kg basis .(Rs. Crores)	247.45	108.13	6.08
Estimated total amount to be borne by the employer based on per worker basis .(Rs. Crores)	263.57	109.82	6.31

3.12 It is important to mention that both the workers' Association and the producers' Associations of North India are in favour of continuance of payment of wages partly in cash (as per settlement wages) and partly in kind (as being distributed at a concessional price at present).

3.13 In case any garden owner is not in a position to undertake the activities of distributing food grains in the absence of the required infrastructure, the alternative system of supplying food grains through local ration shop may be considered and in such situation garden owner would be required to reimburse the cost of food grain to the concerned ration shop.

CHAPTER IV

FACILITIES PROVIDED TO GARDEN LABOUR

4.0 In order to ascertain the extent of facilities provided by the tea garden owners under the Plantation Labour Act, Tea Board obtained information as per prescribed questionnaire from few tea gardens through Indian Tea Association, Tea Association of India and Tea Board's Agartala office. The total number of garden and total number of sampled tea garden considered for ascertaining the present position is indicated below:

Tea growing region.	No. of Garden with area	Entire tea growing region.		Sampled tea garden.	
		No. of tea garden.	Area under tea (Hect.)	No. of tea garden.	Area under tea (Hect.)
Assam Valley	Above 100 Hect.	487	1,88,367	7	3,123.39
Cachar	Above 100 Hect.	84	30,859	8	4,077.37
Dooars	Above 100 Hect.	146	69,201	13	7,625.30
Terai	Above 100 Hect.	55	16,058	4	1,299.16
Tripura	Above 50 Hect.	42	5,911	5	737.27

4.1 The details of workers attached to the tea gardens including small growers' garden are illustrated below. **(Reference year 2004)**

State	Area under Tea (hect.)	Total No. of Permanent workers	No of Casual worker	Total No. of worker	No. of Resident workers	No. of Bonafide dependant of resident worker
Assam Valley	2,39,625	4,65,513	82,212	5,47,725	4,13,094	5,79,320
Cachar	32,143	54,122	15,671	69,793	51,661	79,383
Assam State	271,768	519,635	97,883	617,518	464,755	658,703
Dooars	72,883	152,142	17,270	169,412	146,757	223,008
Terai	23,598	27,905	11,992	39,897	24,922	35,811
Darjeeling	17,522	52,485	878	53,363	48,653	68,813

West Bengal	114,003	232,532	30,140	262,672	220,332	327,632
Tripura	8268	8,641	2,877	11,518	7,681	9,881
North India (including others)	406,190	764,305	132,412	896,717	696,119	996,911
Tamil Nadu	75,978	172,782	93,245	266,027	160,406	164,714
Kerala	37,107	89,032	1,326	90,358	83,102	67,398
Karnataka	2,128	4123	385	4,508	4,123	707
South India	115,213	265,937	94,956	360,893	247,631	232,819
All India	521,403	1030,242	227,368	1,257,610	9,43,750	12,29,730

4.2 The Committee also ascertained the existing social sector facilities available for the tea garden workers on the basis of the sample tea garden studied in respect of (i) Housing (ii) Medical (iii) Education and (iv) Drinking water. The position that emerges is give as under :

(a) **Housing Facilities available in respect of sampled tea gardens -**

State	Area under Tea (hect.)	Residential Permanent workers	Non Residential Permanent workers	Total No. of Permanent workers	Housing facilities provided to the worker at present (based on sample tea garden) (in %)
Assam Valley	2,39,625	413089	52394	4,65,513	83.77%
Cachar	32,143	51,666	2,486	54,122	90.11%
Assam State	271,768	464,755	54,880	519,635	
Dooars	72,883	146,757	5,384	152,142	95.23%
Terai	23,598	24,922	2,983	27,905	88.32%
Darjeeling	17,522	48,653	3,832	52,485	
West Bengal	114,003	220,332	12,200	232,532	
Tripura	8268	7,681	960	8,641	100% @
North India	406,190	696,119	68,186	764,305	
Tamil Nadu	75,978	160,406	12,376	172,782	
Kerala	37,107	83,130	5,902	89,032	
Karnataka	2,128	4,123	---	4123	

South India	115,213	247,659	18,278	265,937	
All India	521,403	943,778	86,464	1030,242	

- According to the reported gardens, the percentage of permanent workers provided with the housing facilities varies between 88% and 100% in different tea growing areas of North India
- It is presumed that 90% of the total tea garden workers of North India has already been provided with housing facilities.
- In case of South India it is reported that there is no need of construction of new houses in tea plantation at present.

(b) Medical facilities available in respect of sampled tea gardens

State	Total no. of permanent workers	No. of Casual workers	No. of Bonafide dependants	Total	No. of Hospital / Dispensary	No. of Physicians available	No. of Health Asstts.	Annual expenditure (In Rs.)
Assam valley	6635	4567	9810	2102	12	8	56	27,04,226
Cachar	6211	2039	10474	18724	11	8	28	26,51,447
Dooars	16181	8755	28727	53663	15	15	120	47,73,474
Terai	1481	1471	2160	5112	3	3	14	5,29,000
Tripura	913	716	1143	2772	5	2	8	13,98,572

- Few tea gardens of North India are not able to provide the garden hospital or dispensary at present
- It is presumed that 10% of the gardens with more than 10.12 hec. of tea area need infrastructure facility.
- The average expenditure of medicine per worker in North India is estimated at Rs.146.37 per person per annum based on the expenditure incurred by the reported gardens.

(c) Educational facilities presently available in the sampled tea gardens

State	Total no of workers including bonafide dependents	Is there any primary school managed by the garden	No. of Children of tea garden workers	Annual expenditure incurred for primary education	Total no of permanent and casual worker	Expenditure per worker (In Rs.)
Assam valley	2102	Yes	4731	17,59,164	11202	157.04
Cachar	18724	Managed by the Govt.	N.A	N.A.	8250	

Dooars	53663	Managed by the Govt.	1516	73338	24,936	2.94
Terai	5112	Managed by the Govt.	N.A.	N.A	2952	
Tripura	2772	Govt. run expt. One	N.A.	26190	1629	16.07

- Concerned State Govts have been providing primary education facilities in the tea growing areas of South India, West Bengal and Cachar Valley of Assam.
- The garden owners are providing educational facilities in the tea growing areas of Assam Valley except Golaghat District.

(d) **Drinking water facilities presently available in the sampled tea gardens**

State	Total no of workers including bonafide dependents	No of family of permanent workers (based on two family per worker)	Is there any provision for providing drinking water	Facilities available providing drinking worker
Assam valley	2102	3318	Yes	Deep tube well & Tube well
Cachar	18724	3106	Yes	Ring well, tube well & supply from PHE
Dooars	53663	8090	Yes	Deep tube well & Tube well
Terai	5112	740	Yes	Ring well & tube well
Tripura	2772	457	Yes	Ring well & tube well

- Tea garden workers are provided with the drinking water facility in all the sampled tea gardens
- However, it is reported that number of tea gardens are required to improve their existing facilities and also to utilise other sources of water for improvement in the services to tea workers

SHORTFALL IN THE FACILITIES TO BE PROVIDED

4.3 In order to identify the gap in the existing facilities vis a vis those required under Law, the gap in respect of the following four statutory provisions has been examined by the Committee.

(a) Housing facilities

- Housing facilities is required to be provided to the 10% of total work force of North India over a period of 10 years.
- Based on assumption of two workers per family the number of labour quarters required for further construction in North India is estimated at 38215.
- Assuming the estimated cost at Rs.2 lac per labour quarter per tea gardens of North India, the total cost over 10 years for construction of 38215 labour quarters works out to Rs.764 crores.
- In addition to the construction of new houses there is also need for repairing and maintenance of the existing labour quarters of North India.
- The total number of existing labour quarters is estimated at 343938 which is 90% of the total houses required for total number of 764305 tea garden workers in North India based on assumption of two garden workers per family.
- In case of South India it is reported that there is no need of construction of new houses in tea plantations.
- There is a need to repair the existing houses for tea garden workers both in North and South India.

(b) Medical facilities

4.4 The PLA, 1951 provides for different kinds of hospitals (dispensaries, garden hospitals or group hospitals) according to the size of the plantations and the number of workers that are employed in these plantations. Establishment of group hospitals has not been possible due to the practical difficulties in setting up and running such hospitals because of the large number of tea gardens/ companies of various sizes and widely different patterns of ownership. The situation has changed over the years with medical colleges, govt. general hospitals etc. having come in plantation regions. Plantations have their own medical infrastructure and these facilities can be used by the tea plantations for their workers whenever necessary. The facilities available are only for routine treatment. Facilities established include hospitals/dispensaries in plantation areas/gardens.

4.5 While the provisions relating to garden hospitals have been implemented in South India, it has not been possible to provide group hospitals in many areas. Estates therefore arrange with the State and Pvt. Hospitals for specialised treatment of their workers, whenever necessary.

- As regards medical facilities, it appears that tea garden owners are incurring expenditure towards supply of medicine apart from the maintenance of dispensary/hospitals with physicians and health assistants etc.
- It is estimated that around 125 dispensaries/garden hospitals are required to be constructed in the tea gardens of North India (80 dispensaries in the State of Assam and 45 in other States of North India).
- There is also a need for maintenance of the existing dispensaries/hospitals of the tea gardens both in North and South India.
- Maintenance of dispensaries is required in respect of 800 tea gardens of Assam and 450 tea gardens in other parts of North India.
- The salaries of physicians, health assistants etc are required to be borne by the tea garden owners for continuance of the facilities to the tea garden workers.

(c) Drinking water facilities

4.6 According to the reported gardens, drinking water is presently provided in the labour lines from tubewells, taps and wells. The existing ratio of water points prevalent in plantations in North India, as reported by ITA, is approx. 1:4 i.e. 1 water point for 4 families.

4.7 The provision of individual taps for each and every household would require a water pipeline to be laid throughout the estate as all labour quarters are not located in one single cluster and are scattered at different locations within the tea estates. Therefore, implementation will entail huge capital expenditure. Further tea estates located either in hilly areas or at the periphery of a rocky terrain often have very low water table making it impossible to set up a centralised water supply system.

4.8 All tea estates in North India are now under the local Panchayat and necessary improvement in the water supply can be brought about through joint projects taken up by the tea estate management with the local Panchayat. All gram panchayats have appropriate schemes for installation of hand-pumps in the panchayat areas. Hence, applicability of Rural Development Schemes on water supply like the Swajal Dhara Schemes to Tea estates could be explored.

4.9 Around 50% of the gardens are required to provide drinking water with improved facilities and to switch over to the other sources of water available in the garden and in the periphery of the garden.

(d) Educational facilities:

4.10 While educational facilities are provided by the concerned State Govt. of West Bengal, Tripura, Tamil Nadu, Kerala and Karnataka and partly in the State of Assam ,

there is a need for maintenance of school building by the tea garden owners in addition to incurring expenditure towards electricity, furniture , salary of attendants etc.

ESTIMATES OF TOTAL COST ON ACCOUNT OF VARIOUS STATUTORY PROVISIONS UNDER THE PLA

4.11 As per the Inter-Ministerial Committee (IMC) Report set up by the Ministry of Labour in 2003 to look into the various issues related to the plantation sector, it was estimated that the plantation industry was incurring an annual expenditure of about Rs.460 crores in North India and an annual expenditure of about Rs. 132 crores in South India on account of statutory and non-statutory welfare measures. The same is reproduced below:

Estimated annual expenditure for Welfare measures as indicated in IMC Report.

(in Rs. Crores)

		<u>North India</u>	<u>South India</u>	<u>All India</u>
Statutory	Medical	77.12	41.00	118.12
	Housing	68.89	22.00	90.89
	Drinking water	N.A.	12.00	N.A
	Education	0.77	-	0.77
	Sanitation and conservancy	19.80	10.00	29.80
	Other Statutory Facilities.	15.32	38.00	53.32
	Total	186.15	126.00	312.15
Non Statutory	Roads	-----	6.00	6.00
	Fuels	49.49	-----	49.49
	Concessional food grains	224.33	-----	224.33
	Total	273.82	6.00	279.82
<u>Grand Total</u>		459.97	132.00	591.97

4.12 As per the report of IMC, the estimated annual expenditure incurred by the tea plantations on various **statutory and non-statutory** social commitments is about Rs.592 crore, of which expenditure on **statutory** commitments under the Plantations Labour

Act is about Rs.312 crore. If 40% of the **statutory** expenditure is to be borne by the Central Government as per the recommendations of IMC, it would cost a financial burden of about Rs.125 crore per annum.

4.13 The expenditure on account of non statutory welfare measures like fuel, roads and concessional rations works out to around Rs.274 crore for North India and Rs.6 crore for South India. **However, concessional ration is a part of workers daily wages provided by the employer of North India.**

4.14 There is no capital cost required in South India for providing statutory facilities like housing, hospital/dispensary, school building and drinking water tap as reported by UPASI.

4.15 However, according to United Planters Association of South India (UPASI), the recurring cost for above mentioned statutory social benefits incurred by Tea Plantation in South India are as follows:

Nature of facilities.	Rs.Per Hectare.
Housing	1,542.60
Sanitation & Conservation	894.14
Medical	3,516.50
Education	222.11
Drinking water.	817.28

4.16 Indian Tea Association has made a estimation of the present cost which is indicated as follows:

(Figures in Rupees)

Cost Head	Fixed Cost (in Rupees)	Recurring Cost Cost (in Rupees)
Housing	2.00 lac per house	5000 per house
Sanitation & conservation	2.00 lac per garden	Nil
Medical (Assam)	5.00 lac per dispensary	6.00 lac per garden
Medical(North India other than Assam)	4.00 lac per dispensary	6.00 lac per garden
Drinking water	Nil	2.00 lac per garden
Education	Nil	Rs.60,000 as salary for 600 gardens of Assam Valley excluding Golaghat and Rs.20,000 for attendant, electricity, furniture etc for 1250 gardens of North India

4.17 Drinking water cost is required to be estimated on the parameter of engagement of technicians, workers, water purifier, electricity etc. There is also a need for repairing of water line from time to time. As majority of the tea estates do not have piped water supply and are providing water from hand pumps and tube wells there is a need for centralised drinking water system based on the source of water.

a. Estimated annual expenditure for North Indian tea plantation for Providing Statutory facilities.

Head	Fixed cost (Rs. in crore)	Recurring cost (Rs. in crore)	Total (Rs. in crore)	Cost (in Rs. Per kg of made tea)*
Housing	76.40	34.40	110.80	1.85
Sanitation & conservation	25.00	-	25.00	0.41
Medical	5.80	75.00	80.80	1.35
Education	Nil	6.10	6.10	0.10
Drinking water	Nil	25.00	25.00	0.41
Total	107.20	140.50	247.70	4.12

*Based on annual production of 600 m.kgs

4.18 Assumption:

- 1) Total number of permanent workers in North India is estimated at 764,305
- 2) Estimated number of total houses required in North India based on two workers per family is at 382,153
- 3) In view of non- availability of houses to 10% of the workers of North India, it is estimated that 38,215 houses are required to be constructed over a **ten-year period**. This means that in each year 3,820 number of houses are required to be constructed in North India.
- 4) However, the repairing work is to be continued for 343,938 number of existing houses (being 90% of total required houses). 20% of existing houses (approx. 68790 house) is required to be repaired in each year.
- 5) The number of garden where dispensary is to be constructed in Assam works out to 80 and in other parts of North India works out to 45.
- 6) The recurring expenditure towards medical facility including salary of physicians facilities and paramedical stuff, supply of medicines etc has been worked out for total number of 1250 gardens.

- 7) The recurring cost of education includes school building maintenance, electricity, furniture etc.
- 8) Per annum Salary of teachers @ Rs 60,000 per teacher per garden and @ Rs 20,000 for school building maintenance, electricity, furniture etc.
- 9) Tea area of big growers in South India has been considered as 66,425 hectares.

b. Estimated annual expenditure for South Indian tea plantation for Providing Statutory facilities.

Head	Fixed cost Rs. in crore	Recurring cost Rs. in crores	Total Rs. in crore	Cost (in Rs.per kg. of made tea)*
Housing	Nil	10.25	10.25	0.76
Sanitation & conservation	Nil	5.94	5.94	0.44
Medical	Nil	23.36	23.36	1.73
Education	Nil	1.47	1.47	0.11
Drinking water	Nil	5.43	5.43	0.40
Total	Nil	46.45	46.45	3.44

- Based on annual production of 135 m.kgs
- Based on 2100 Kgs per hectare

4.19 Estimate total turn over of tea industry during 2006 vis-a-vis required annual expenditure for providing statutory facilities under PLA.

Estimated value of Tea produced during the Year 2006

Region		2006				
		Quantity (Million Kgs)	Export Value (Rs Crs)	Unit Export Price (Rs / Kg)	Avg Price (Rs / Kg)	Estd.Value of Tea (Rs Crs)
North India	Production	729.62	---	---	---	---
	Export	86.74	1038.62	119.74	---	1038.62
	Pdn (-) Exp	642.88	---	---	---	---
	Garden Pack for domestic	80.00	---	---	150.00	1200.00
	Pdn (-) Exp (-) G Pack	562.88	---	---	71.62	4031.35
	Total	---	---	---	---	6269.97

South India	Production	226.29	---	---	---	---
	Export	117.12	792.36	67.65	---	792.36
	Pdn (-) Exp	109.17	---	---	---	---
	Garden Pack for domestic	40.00	---	---	120.00	480.00
	Pdn (-) Exp (-) G Pack	69.17	---	---	50.79	351.31
	Total	---	---	---	---	1623.67

ALL INDIA	Production	955.91	---	---	---	---
	Export	203.86	1830.98	89.82	---	1830.98
	Pdn (-) Exp	752.05	---	---	---	---
	Garden Pack for domestic	120.00	---	---	---	1680.00
	Pdn (-) Exp (-) G Pack	632.05	---	---	---	4382.66
	Total	---	---	---	---	7893.64

(figures in Rs Crs)

	North India	South India	All India
Total Turnover	6269.97	1623.67	7893.64
Total Estimated cost for providing facilities for Statutory Provisions	247.70	46.45	294.15
Percentage to total turn over	3.55%	2.86%	3.73%

ABILITY OF INDUSTRY TO BEAR THIS COST

4.20 The impact of providing for social infrastructure and facilities translates to about Rs.3.44 per kg in South India and Rs. 4.12 per kg in North India. The average price of tea is about Rs.70 per kg in North India and is around Rs. 45-50 per kg in South India. The impact of social costs in percentage terms works out to about 5-8%. The profitability of the industry at the current level of prices both in the local and international markets does not provide the way to meet this cost. The total cost both fixed and variable for providing these facilities, is around Rs.300 crore per annum. In an industry with a turnover of about Rs.7800 crore this burden is too high. Any fall in the prices would further raise the percentage of social cost. It cannot be presumed that in an industry which is highly labour intensive, the margins of profits are going to be as adequate as to bear this quantum of burden of the social cost.

4.21 The Committee, therefore, feels that the social sector cost do need to be shared by the government to the extent they can be covered under the various ongoing social sector schemes of the Central / State Governments as was recommended by the Inter-Ministerial Committee earlier.

CHAPTER - V

VIEWS OF INDUSTRY FOR ABSORPTION OF SOCIAL SECTOR COST

5.1 Action had been initiated to consider the scope of a pilot project after mapping of the tea gardens in North Bengal for identifying the facilities already provided by the garden management and also the facilities under the Central Government's Rural Development Schemes which could be extended to the workers in each of these gardens. Subsequently, the feasibility of extending this to other plantation areas in the country would be considered. The implementation of this scheme would require co-ordination with various Ministries/Departments like Ministry of Rural Development, Ministry of Human Resource Development (Department of Elementary Education), Department of Health, Department of Drinking Water Supply etc. and the concerned State Governments. While preliminary discussions had been held with various Ministries/Departments, given the complexity of the issues, it is necessary to have a process of detailed consultations and analysis before any such scheme can be implemented.

5.2 For construction of dwelling units, the applicability of the Indira Awas Yojana could be explored. The objective of the scheme is to help construction/upgradation of dwelling units of SC/ST and others below the poverty line by providing them with a lump-sum financial assistance. This is again a centrally sponsored scheme funded on cost sharing basis between Government of India and State Governments in the ratio of 75:25

5.3 This scheme could be suitably modified and applied as additionally to housing efforts by plantation managements.

5.4 The Central Government introduced the Accelerated Rural Water Supply Programme (ARWSP) in 1972-73 to assist the states with 100% grants-in-aid to implement the scheme in problem villages. After preliminary consultations with Ministry of Rural Development, it is felt that a scheme for supply of drinking water could be developed in the ratios suggested by the Committee where the industry and state component would be 40:10.

5.5 Indian Tea Association has made a reference to the recommendations of the Inter Ministerial Committee on sharing of social cost. According to the Association the tea Industry has made several representation to the Govt. of India for implementation of the recommendations of Inter Ministerial Committee. The possibility of mitigating the social sector cost through application of the Welfare Scheme of the Govt. of India on rural development covering rural housing , water supply etc. where explored over the last few years. These schemes are implemented through the local panchayat and the eligibility criteria do not readily make them applicable to tea estates where the land is under an agreement of

lease by the concerned State Govt. According to ITA such schemes are required to be suitably modified to make them applicable to the tea estates.

5.6 ITA suggested for sharing the social cost burden of the tea plantations by providing a direct grant to tea plantations against statutory certified expenses incurred by them .

5.7 The representative of the workers suggested that the limit of maximum leave admissible in the cases of prolonged illness may be raised to 90 days. The Committee felt that this would have implications in other sectors as well, therefore, the Ministry of Labour may consider this matter separately.

CHAPTER VI

RECOMMENDATIONS OF THE COMMITTEE

6.0 The Committee has held several rounds of discussions and interacted with various stake holders. The Committee went into the details of the study done by the School of Economic and Business Laws and the West Bengal National University of Juridical Sciences on various legislations concerning tea industry. The Committee studied the various mandatory requirements under the Plantation Labour Act with regard to medical, housing, education and drinking water facilities to the tea garden workers and assessed the facilities presently available. The Committee after examining the entire gamut of the provisions of Plantation Labour Act and various other laws applicable to the plantation industry with a view to harmonise different provisions in different Acts and the financial burden of social cost on the growers, has made the following recommendations:

6.1 The Plantations Labour Act 1951(PLA), which is a unique social security legislation in many respects compulsorily requires the employer to provide housing, medical and educational facilities to the workers. These progressive measures have definitely played a crucial role in improving the standard of living of the plantation workers. Considering the fact that around 50% of the workforce comprises of women and adolescents, the continuation of these measures becomes all the more imperative. Many other facilities like canteen facilities, crèches etc are also to be provided by the employer. **All the social security measures provided in the PLA need to be retained. In fact, there is a need to have improved social security system for the workers in place.** However, as the PLA differs from many other social security legislations in imposing liability exclusively on the employer to provide these facilities, there are chances that the industry which has been in a crisis in the recent past may further become uncompetitive if it continues to bear the costs of the social benefits fully.

6.2 Though PLA is a Central Legislation enacted by the Parliament, the administration of the Act is left entirely to the State Governments. The extent of implementation by concerned State Governments vary from State to State, therefore, a proper balance and uniformity, to the extent possible, needs to be ensured in the implementation of the Act.

6.3 Wage structure - The existing system of wage settlement by bipartite/tripartite agreement should continue but the minimum wage should not be less than the minimum wage fixed from time to time.

6.4 The Committee feels that payment of **part wages as rations** as is the practice in North India should continue as both workers and employer do not find it cumbersome or outdated.

6.5 Housing facility

1. Under Section 15 of the PLA housing facilities are to be provided to the workers by the employer. This facility is available only to the workers and their families. Once a worker ceases to be a worker, the house occupied by him or her has to be vacated. The Government of West Bengal has made provisions to this effect in the rules made under **Section 16 of PLA. Similar provision may be incorporated by the State Government of other tea producing States.** Therefore, the suggestion from the industry that houses can be constructed under government sponsored schemes for garden workers **is not acceptable** because under housing scheme for the poor the houses can be built over the land on which there is an ownership right of the beneficiary. The house so built belong to the beneficiary. If houses under these schemes are built, the ownership of land will have to be transferred to the worker which **will not be desirable** for keeping the integrity of the plantation intact. **Therefore, the responsibility of providing housing facilities should continue to be with the employer.**

However, the workers who have retired from the service can be settled by the State Government elsewhere and assistance under various housing schemes may be provided to them by the State Government.

2. Medical facilities

- There are existing medical facilities available with the tea gardens. Some of the gardens have also set up group hospitals. These facilities will, of course, be used for providing medical care. Where the facilities of group hospitals have not been created, conveniently located Govt./Private hospitals in the tea growing areas may be notified by the State Government concerned to provide the second tier of medical facilities. The employer however, will pay the cost of treatment for its employees for use of such medical facilities.
- Tea industry may explore the possibility of setting up of group/referral hospitals in and around the tea plantation preferably under public private partnership. Government of India/Tea Board may consider one-time financial assistance for such ventures.
- On the recurring cost of medical facilities provided in the gardens, 50% subvention may be given to the tea gardens. It will be easier to administer the cost sharing if the salaries of the medical and paramedical staff are subsidised.

3. Educational facilities

- Physical infrastructure of primary education facilities may continue to be provided by the employer.
- Some of the States are already paying the salaries of teachers. In the States where this pattern is not in vogue, the concerned state governments may pay the salaries of teachers as is the pattern in the case of aided schools. The other recurring cost may continue to be borne by the garden owners.

4. Sanitation and conservation

- Facilities towards sanitation and conservation shall be taken care of by the employer during the new construction of labour quarters.
- In the case of existing labour quarter not having such facilities, the on-going community sanitation scheme of Govt. of India may be availed of by the employer.
- Tea Board, under its scheme of Labour Welfare, is already providing some assistance for sanitation. That can be utilised by the garden owners to part fund the sanitation scheme.

5. Drinking water

- The plantations do provide drinking water facilities to the plantation workers. However, if there are gaps these can be filled up by taking benefit under Govt. sponsored scheme like Swajaldhara.

6. Age of employment of adolescents

The age of employment of adolescents in the Plantation Act should be as per the provisions of Child Labour (Prohibition and Regulation) Act. For this purpose erstwhile Section 24 of Plantation Labour Act needs to be restored.

7. Maternity Benefit Act 1961

Benefit under this Act may be retained but it should be restricted to only two children.

8. Land Legislations

- Specific provisions to be included in the lease agreement permitting alternate cropping. However, the land to be allowed for alternative cropping should not exceed 10% of the total area utilizing only the available vacant land in the plantation.
- The plantations should be allowed to use their facilities for eco-tourism without changing the character of the plantation. For this, the gardens may be allowed to use only the existing bungalows.
- Issue of short term renewal of lease is required to be addressed through a reasonably longer period of lease.
- Provisions should be made to pay salami (lease renewal fee) in instalments for those gardens that are financially weak.

9. Tree protection legislation

The shade trees which are grown to provide shade to the plantation crop should be exempted from the application of Preservation of Trees Act because these trees need to be uprooted/cut/replaced from time to time.

10. Prevention of Food Adulteration Act 1954 and The Prevention of Food Adulteration Rules 1955

There is no definition and standards of quality of “ instant tea” at present in PFA Rules. Though it defines other teas.

It is therefore, proposed that the same may be inserted in the PFA Rules as per specification indicated by Bureau of Indian Standards (BIS).

Rule 63 of the PFA Rules allows three types of flavouring agents –

For items of food in general. These are “Natural flavour” and “Natural flavouring substance”, “Nature identical flavouring” substances and “Artificial flavouring substances”.

However, in respect of tea only Natural flavour and natural flavouring substances obtained exclusively by physical processes from materials of plant origin acceptable for human consumption is allowed.

It is proposed that “Nature identical flavour may be allowed to be added with tea for the purpose of marketing as flavoured tea with proper level declaration as provided in Rule 42(Y) of PFA Rules.

The Rule 57 of the PFA Rules indicates the maximum limits of the poisonous metals like lead, copper, tin , cadmium, mercury etc for different food items. The name of “Iron filings” has not been included in the PFA Rules.

Bureau of Indian Standards, however, has mentioned that Iron Filing in black tea shall not exceed the limit of 250 mg per kg and their size shall not be greater than 2.0 mm. The method of analysis towards presence iron filing has also been specified by BIS.

It is proposed that similar maximum limit may be inserted in PFA Rules.

11. The Payment of Gratuity Act 1972

Ministry of Labour may be requested to explore the possibility of covering the subscription of workers towards gratuity to be deposited under EPFO and if that is not considered possible, a suitable mechanism to be worked out so that the plantation workers are not put to any inconvenience at the time of settlement of their terminal benefits.

12. In respect of the following Acts, the Committee does not recommend any change:

- Weights and Measures Act
- The Factories Act 1948
- The Equal Remuneration Act 1976
- The Payment of Bonus Act 1965
- The minimum wages Act 1948

13. The Committee feels that for subsidising the medical, health, drinking water and education, funds may be mobilised by imposing additional excise duty of Rs.1 per kg. on packet tea. The duty will be leviable only on the tea that is not exported. It would give about Rs.30-35 crore per year. This fund can be made available to the Tea Board for subsidising the aforesaid facilities.

The Committee also recommends that the above recommendations may also be implemented to other plantation crops where Plantation Labour Act applies. However, certain modifications in the recommendations in each crop may be necessary.

No.T-22015/13/2003-Plant(A)
Government of India
Ministry of Commerce & Industry
Department of Commerce

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Udyog Bhavan, New Delhi
Dated: 05.03.2007

ORDER

Subject : Examinations of legislations related to tea industry- Constitution of
Committee-Regarding

A number of legislations like the Plantation Labour Act 1951, the Minimum Wages Act, 1948, the Employees Provident Fund and Miscellaneous Act, 1952, the Maternity Benefit Act, 1961, the Payment of Bonus Act, 1965, the Payment of Gratuity Act, 1972 and the Equal Remuneration Act, 1976 are applicable to the tea industry. There are also a number of other legislations related to land laws of the States, revenue, standard of quality of tea apart from the Factories Act, 1948 and the Standard of Weights and Measures Act, 1976 etc. which also apply to this industry.

2. In order to streamline, rationalize and harmonize the applicable laws with the objective of giving fillip to faster development of the tea industry, it has been decided to constitute a Committee with the following members:

- i. **Shri O. P. Arya, Additional Secretary (Plantations), Department of Commerce-Chairman**
- ii. **Shri Basudeb Banerjee, Chairman, Tea Board- Member**
- iii. Additional Commissioner of Industries and Commerce, Government of Tamil Nadu, Department of Industries & Commerce, Chennai- Member
- iv. Shri Lok Ranjan, Commissioner & Secretary, Government of Tripura, Department of Industries & Commerce, Agartala - Member.
- v. Shri R. S. Adhikari, Director, Uttaranchal Tea Development Board, Almora - Member.
- vi. Commissioner & Secretary to the Govt. of Assam, Department of Industry & Commerce - Member.
- vii. Dr. Subesh K. Das, Labour Secretary, Government of West Bengal - Member.
- viii. Shri K.V. Mohandas, Additional Labour Commissioner (IR), Government of Kerala, Office of the Labour Commissioner, Thiruvananthapuram - Member.
- ix. Technical Officer (Tea), Government of Himachal Pradesh - Member.
- x. A Representative of Labour Ministry - Member.
- xi. Chairman, Indian Tea Association - Member.
- xii. Shri Alok Chakravarty, Putul Ghar, Durgaguri, Silliguri, West Bengal -representing persons employed in Tea Estates/Gardens - Member.

xiii. Smt. Aditi Das Rout, Director (Plantations), Department of Commerce- Member Secretary.

3. The Committee shall, in consultation with the concerned State Govts.

- (i) examine implications of different laws on smooth functioning of the Tea Industry;
- (ii) identify impediments, if any in the applicable laws and to suggest appropriate remedial measures;
- (iii) suggest measures to harmonize different provisions in the various applicable laws; and
- (iv) suggest any other recommendations with respect to the legislative framework which the Committee feels are necessary for growth & development of this industry.

4. The Committee shall submit its report to the Govt. with 6 months from the date of its constitution.

Sd/-

(Aditi Das Rout)
Director

Copy to:

- i. **Shri O. P. Arya, Additional Secretary (Plantations), Department of Commerce- Chairman**
- ii. **Shri Basudeb Banerjee, Chairman, Tea Board.**
- iii. Additional Commissioner of Industries and Commerce, Government of Tamil Nadu, Department of Industries & Commerce, Chennai.
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- ix. Technical Officer (Tea), Government of Himachal Pradesh
- x. A Representative of Labour Ministry.
- xi. Chairman, Indian Tea Association
- xii. Representative from Labour Union.
- xiii. Smt. Aditi Das Rout, Director (Plantations), Department of Commerce- Member Secretary.

Annexure II

OVERALL LIABILITY

The estimated cost per kg and the estimated total annual requirements of funds for providing following social sector benefits to the tea garden employer is summarized as follows:-

Name of the facility	North India			South India			All India	
	Cost per garden	Total cost (Rs. crore)	Cost per kg of made tea (Rs.)	Cost per hectare (Rs.)	Total cost (Rs. crore)	Cost per kg of made tea (Rs.)	Total cost (Rs. crore)	Cost per kg of tea (Rs.)
Housing	Rs. 2.00 lakh per house as construction cost and Rs. 5000 per house as maintenance cost	110.80	1.85	1542.60	10.25	0.76	121.05	1.65
Sanitation and conservation	Rs 2.00 lakh per garden	25.00	0.41	894.14	5.94	0.44	30.94	0.42
Medical facilities	Rs.6.00 lakh per garden as recurring cost and Rs. 5 lakh per dispensary as construction cost in Assam and Rs. 4 lakh per dispensary in North India other than Assam	80.80	1.35	3516.50	23.36	1.73	104.16	1.42
Education facilities	Annual recurring expenditure @ Rs. 20,000/garden and Rs. 60000 as salary per garden of Assam Valley other than Golaghat	6.10	0.10	222.11	1.47	0.11	7.57	0.10
Drinking water	Rs 5.00 lakh/garden	25.00	0.41	817.28	5.43	0.40	30.43	0.41
Total		247.70	4.12		46.45	3.44	294.15	4.00

