Chapter 4

QUALITY CONTROL BY FIXATION OF STANDARDS

Prescribing a minimum standard for products by an independent and impartial agency, and sanctioning the use of quality logo in the products signifying compliance with those standards, is a useful method of quality control. This measure is of considerable advantage to consumers in making a rational choice of products. Standard designation mark is beneficial to the manufacturers and sellers also. It confers positive advantages on manufacturers and sellers by more customer preference. The consumers obtain a product with a certain degree of quality assured by the quality mark. The manufacturers can profit out of better consumer demand for their products. Maintenance of higher degrees of quality would attract not only domestic consumers but also consumers from abroad.

There are at least five types of standards seen in the present day life. The first among them are technical standards, which are intended to act as a common medium between manufacturers and consumers. They define a common language acceptable for all, for example, wattage marking in electrical appliances. The second type of standards represents those involving usages and practices influencing the behavior of all players in the market. Its concern probably is the health and safety of professional users and ultimate consumers. The code of practice in handling LPG to ensure safety can be cited as the best example. The third type of standards is known as reference standards. Standards of length, mass and time are reference standards. The fourth type is quality standards. It ensures customer confidence in the goods and services.
offered by companies. Quality marking by the Bureau of Indian standards, and ISO 9000 certificate issued by the International Organization for Standardization are best examples. The fifth are environmental standards, which safeguard the environmental quality of our life. For example, the control of quality of the air we breathe is regulated by defining the admissible emission level of automobile smoke. However, in this study the standards for quality of goods alone are examined.

In this era of globalisation, 'quality' is considered as the 'mantra' of competitiveness. Quality has emerged as the prime factor in determining the international acceptability of the product. Gone are the days when it was possible to thrive on national quality standards prescribed by domestic agencies. The Indian and foreign buyers who wield the ultimate power are mercilessly selective on quality. Business perspectives have today shifted from price to product safety, reliability, durability and acceptability to the consumer.

If a manufacturer is to survive and prosper in the intensely competitive environment he has to live by a long-term commitment to quality and performance. Domestic markets of yester years have become global markets due to economic liberalization. The special protection given to homemade goods by the imposition of trade barriers by domestic governments have been taken away. Survival in the global market is possible only if the product is qualitatively competitive. Global competition in this sense is advantageous to the consuming public. Without any conscious effort

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3 B.S. Warrier, Id., p.27.
from any agency, manufacturers are self-motivated to improve the quality of their product. But we cannot assume that competitive forces would percolate into the lower levels of business activity which certainly needs authoritative back up to come up and prosper. Even in competitive economy, businessmen at the higher ups in the market also are in need of periodical updating and improvement in their quality standards. Changing standards necessitate revision of existing standards. These changes can be better monitored by special agencies. It is pertinent to ensure that these agencies are technically competent for the job of formulation of standards. They should also consider national preferences and capabilities.

Institutional standards prevalent in any country can be of three types. Law may sometimes make standards compulsorily applicable to the commodities covered by it.\(^5\) It may on the contrary, opt for a partial compulsion with reference to certain items of articles alone\(^6\). Legislative compulsion to make compliance with the standards mandatory, usually arises on grounds of public interest such as safety and health of the consuming public. Certain standards formulated can be left entirely to the volition of the manufacturers who may or may not follow those standards for their products\(^7\). In all the three cases, the illegal use or representations regarding the standard marks are punishable\(^8\). Businessmen are thus prevented from reaping

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4 G.Chandran Pillai, *Id.*, p.27. Adoption of the GATT agreements by most of the nations paved the way for opening up of trade barriers in these countries.
5 See for example, the Drugs and Cosmetics Act, 1940; the Prevention of Food Adulteration Act, 1954 and the Fruit Products Order, 1955.
6 For example, some of the quality standards fixed by the Bureau of Indian Standards have been made applicable to certain commodities by orders issued under the Essential Commodities Act, 1955 while allowing other standards to remain optional for the producers to adopt it or not.
7 This is true with reference to most of the quality standards fixed by the Bureau of Indian Standards.
8 See for example, the Fruit Products Order, 1955, order 12; the Drugs and Cosmetics Act, 1940, s. 31 and the Prevention of Food Adulteration Act, 1954, s. 16.
commercial advantage without ensuring compliance with the prescribed quality for their products.

Standard fixation can be done by national or international agencies. In some cases international standards are incorporated into national law by legislation making international standards either voluntarily or compulsorily applicable in municipal jurisdictions.9

Whatever may be the mode of supervision exercised—voluntary or compulsory—the use of standard mark of quality is regulated through licensing. Standard fixation generally is done by a committee consisting of technical experts in the field. Representatives from industry and consumer organisations also take part in the deliberations leading to fixation of quality standards. Standards fixed are subjected to periodical revisions to accommodate technological and other changes that may occur from time to time. Indian scenario encompasses both voluntary and compulsory form of standardisation schemes.10 Similar schemes are adopted in most of the civilized countries. An analysis of the global schemes for standardization will throw more light on the national standard setting process.

Global Standards

There are many international organisations, which work in the field of standardisation complementing each other. They publish international standards for compatibility of technology worldwide. The International Organisation for

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9 See for example, the International Convention for the Safety of Life at Sea, 1974 (SOLAS' 74) which has now been incorporated in India by the Construction and Survey of Passenger Ships Rules, 1977. See also, K.R. Bhandarkar (Ed.), Maritime Law of India, Bhandarkar Publications, Bombay (1979), pp.130-257. Similarly many of the ISO standards have been incorporated into the BIS standards.

10 The obvious example of a compulsory scheme can be seen in the case of fruit products. See Fruit Products Order, 1955. The Agmark scheme under the Agricultural Produce (Grading and Marking) Act, 1937, is an example of voluntary scheme.
Standardisation\textsuperscript{11}, the International Electro-technical Commission\textsuperscript{12} and the International Telecommunication Union\textsuperscript{13} are some of the major organisations working in this field.

The significant role of international standards as the technical foundation for the global market is expressly stated in the World Trade Organisation\textsuperscript{14} agreement on "Technical Barriers to Trade"\textsuperscript{15}. The WTO agreement includes "Code of Good Practice" for the preparation, adoption and application of standards. While the GATT\textsuperscript{16} standards Code of 1979 was signed only by 40 countries, the new version applies to all the 130 countries of the WTO, out of which 70 countries have so far notified their acceptance of the 'Code of Good practice'. Many countries are expected to join the group sooner or later.

For manufacturers from developing countries like India, longing for an access to the markets of developed countries, it is necessary to ensure that their products meet strict quality standards. Standards of quality are not confined to exports alone. Economic liberalization has permitted foreign companies to trade into the domestic markets of many developing countries. Manufacturers of products intended solely for home market will have to face stiff competition from companies abroad where quality standards are very high. The marketability of their products in domestic as well as foreign markets is severely affected. Improvement in quality standards is the order of the day for survival in the market.

\textsuperscript{11} Hereinafter referred to as ISO.
\textsuperscript{12} Hereinafter referred to as IEC.
\textsuperscript{13} Hereinafter referred to as ITU.
\textsuperscript{14} Hereinafter referred to as WTO.
\textsuperscript{15} Hereinafter referred to as TBT.
\textsuperscript{16} GATT means General Agreement on Tariffs and Trade.
From a designer's point of view a single international standard is a real advantage instead of having to adapt the goods to each market at a great expense. It is a boon even for customers. It is encouraging to note that adoption of international standards is on the increase. Now that the ISO 9000 quality systems requirements have been accepted worldwide.

ISO 9000 – Its Origin and Importance

The ISO 9000 standards are looked upon as a powerful tool for efficient management for product quality and for all business operations irrespective of their area of business. An enterprise can remain in business and make profits in the long run only by satisfying the needs of its customers. Consumers while placing their orders generally submit product specifications. It is assumed that if these specifications are met during the production process followed by verification and inspection, full customer satisfaction can be attained.

International standardisation began for the first time in 1906 in the electro technical field by the IEC. In the mechanical engineering field, the International Federation of the National Standardisation Associations\(^\text{17}\) was set up in 1926. It became functionally defunct due to the Second World War in 1942. In 1946 delegates from 25 countries met in London and decided to create a new international organization.\(^\text{18}\) The object of this organization was to facilitate international co-operation and unification of international standards. The new organization, ISO,

\(^{17}\) Hereinafter referred to as ISA.

\(^{18}\) It was on October 14, 1946 that the delegates met at London. World Standards Day is celebrated each year on October 14, which marks the birth of the ISO. The first World Standards day was celebrated in 1970. See M.S.S. Varadan, “Standards: Their Effect on Daily Life”, The Hindu, Trivandrum, October 14, 1998, p.27. The ISO presently is a non-governmental organisation with worldwide acceptance.
began to function officially from 1947. The first ISO standard was published in 1951.¹⁹

A member body of ISO is the national body, most representative of standardization in that country. Therefore, only one body is accepted for membership. The member bodies are entrusted with the following tasks to accomplish:

(i) Informing potentially interested parties in their country relevant international standardization opportunities and initiatives.

(ii) Organising and expressing of a concerted view of the countries interest during international negotiations leading to standards agreements

(iii) To act as a secretariat for the ISO Technical Committees and Sale Committees in which the country has an interest.

(iv) Ensure the payment of the country's share of financial support for the operations of ISO.²⁰

ISO also has provision for correspondent membership, which is granted to one organization in a country that does not have a fully developed national standards activity. Correspondent members do not take part in the technical work of ISO, but are entitled to be informed about its work, which are of interest to them. ISO has also a third category of membership viz., subscriber membership, for countries of small economies. They pay only a reduced membership fee but are allowed to keep in touch with international standardization.

²⁰ Ibid.
The technical activities of ISO are highly decentralized. These functions are carried out through hundreds of technical committees, sub committees and working groups. Quality Management and Quality Assurance Technical Committees of ISO\textsuperscript{21} is the forum for carrying out the standardization work pertaining to ISO 9000 family of standards. In these committees, representatives from industry, research institutes, government authorities, consumer bodies and persons representing organizations of standardization all over the world are allowed to take part in the evolution and resolution of global standardization problems.

The Central Secretariat in Geneva ensures the flow of documentation in all directions. It clarifies technical points with other regional secretariats. Agreements approved by the technical committees are edited and printed and finally submitted as draft international standards to ISO member bodies for voting. Although a greater part of the ISO technical work is done through correspondence, there are, on an average a dozen ISO meetings taking place somewhere in the world every working day of the year.\textsuperscript{22} ISO closely collaborates with the IEC on all matters of electro technical standardization.

Factors such as technological evolution, new methods and materials, new safety and quality requirements may render a standard out of date. ISO has established a general rule that all ISO standards should be reviewed at intervals of not more than five years.\textsuperscript{23} The latest revisions are still in progress\textsuperscript{24}.

\textsuperscript{21} This Committee is numbered as ISO/176.
\textsuperscript{22} Ibid.
\textsuperscript{23} ISO's work has resulted in more than 9300 international standards. Ibid.
\textsuperscript{24} See A.K. Talwar, "Latest Developments in the next Revision of ISO 9000 Standards", The Chartered Secretary, June 1999, p.636.
There are a variety of internal and external advantages for a company in obtaining ISO 9000 certification. International benefits comprises of better clarity, less confusion, reduced crisis management, higher confidence of employees, higher morale, more productivity and congenial atmosphere at shop floor, reduced errors, reworks and rejects. External benefits include improved competitiveness, worldwide recognition, and increased credibility and customer satisfaction. When the customer purchases a product or a service from an ISO 9000 company, he is assured of a known standard of quality.

The question why Indian companies are going for ISO 9000 registration at this point of time is of considerable relevance. Some writers opine that it is simply to protect self-interest. It became evident to Indian companies that if they wanted to do business abroad especially in Europe, they needed to have ISO 9000 registration. Major global companies insist that their own part suppliers must be an ISO 9000 registered organization. The reward is that companies that have re-organized themselves to achieve ISO 9000 certification have a significant drop in customer complaints and operating costs.

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But many are the requirements that are to be complied with to obtain an ISO certification.\textsuperscript{30} It needs a third party assessment and attestation of the organization that it meets the requirements of the relevant ISO 9000 standard. Assessment is being done in minutest details. If any discrepancy is noticed and found trivial, the auditor may still certify that the organization has complied with relevant ISO 9000 standard. But the registration agency will maintain a close surveillance at half-yearly intervals to ensure that the organization doesn’t slip back.

**Certification Schemes for Drugs and Pharmaceutical Products**

Standardization of drugs and pharmaceutical products is an area where the World Health Organization\textsuperscript{31} has made significant contribution. The adoption of a Good Manufacturing Practice and evolving a system of certification at the international level by WHO has made positive results in the improvement of quality of these products.

**The ‘Good Manufacturing Practice’ Recommended for Drug Industry**

International concern for health and safety of mankind through standard drugs paved the way for formulation of a draft text on ‘Good Manufacturing Practice’\textsuperscript{32}. The Draft Requirements for Good Manufacturing Practice in the Manufacture and

\textsuperscript{30} The Organization is to undertake the following activities:
(a) produce a manual documenting the quality system;
(b) produce a document describing how the work in the plant is carried out;
(c) create a system to control distribution and re-issue of documents;
(d) design a corrective and preventive system to ensure faults in quality don’t occur;
(e) identify in house training needs;
(f) check, recalibrate and repair test and measuring equipment and
(g) plan and conduct periodic quality audits. \textit{Ibid.}

\textsuperscript{31} Hereinafter referred to as WHO.

\textsuperscript{32} Hereinafter referred to as GMP.
Quality Control of Drugs and Pharmaceutical Specialties submitted by the World Health Assembly was accepted in 1967. It was subjected to many revisions.\textsuperscript{33}

The requirements of GMP presented in the guidelines are in three parts. The philosophy and the essentials of quality management in drug industry is dealt with in the first part. Quality assurance is considered as the joint responsibility of the top management and of the production and quality control management. The second part deals with practices in production and quality control. Actions to be taken by the personnel in the production and quality control departments are outlined in this part. Part three contains two supplementary guidelines. Further guidelines can be developed in future.

**The Essentials of Quality Management in Drug Industry**

In the drug industry, ‘quality management’ is defined as an aspect of the managerial function that determines and implements the quality policy of the organization formally expressed and authorized by top management. The basic elements of quality management as per the GMP are:

(i) existence of an appropriate infrastructure or ‘quality system’ encompassing the organizational structure, procedures, processes and resources; and

(ii) systematic actions necessary to ensure adequate confidence that a product (or service) will satisfy given requirements of quality. The totality of these actions is termed ‘quality assurance’.\textsuperscript{34}


Quality Assurance

Conceptually 'quality assurance' covers all matters that individually or collectively influence the quality of a product. It is in fact the sum total of the arrangements made with a view to ensure that pharmaceutical products are of the quality required for their intended use. According to the GMP a quality assurance system appropriate to the manufacture of pharmaceutical products must ensure the following:

(a) the pharmaceutical products are designed and developed in a way that it takes into account the requirements of GMP and other associated codes such as Good Laboratory Practice\(^{35}\) and Good Chemical Practice\(^{36}\);  
(b) the production and control operations are clearly spelt out in a written form and GMP requirements are adopted;  
(c) managerial responsibilities are clearly specified in job descriptions;  
(d) arrangements are made for the manufacture, supply and use of the correct starting and packing materials;  
(e) all necessary controls over materials and products are carried out;  
(f) the finished products are correctly processed and checked in accordance with defined procedures;  
(g) sale and supply of pharmaceutical products are done only after certification by authorities;

\(^{35}\) Hereinafter referred to as GLP.  
\(^{36}\) Hereinafter referred to as GCP.
(h) satisfactory arrangements ensuring maintenance of quality of pharmaceutical products during storage and distribution are made; and

(i) a procedure for self-inspection and quality audit that appraises the effectiveness of the quality assurance system is established.  

The GMP guidelines consider that the manufacturer must assume responsibility for the quality of the product to ensure that they are fit for their intended use. He must ensure that his marketing of goods shall not place patients at risk due to inadequate safety, quality or efficacy.

Quality Control Under GMP

Quality control is concerned with sampling, specification and testing along with documentation and release procedures. This ensures that necessary tests are actually carried out and that materials and products are not released for supply or use until their quality has been judged to be satisfactory. Each manufacturer should have a quality control department independent from other departments. This department must be under the authority of a qualified person with laboratories and resources at his disposal to ensure the basic requirements of quality control.

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37 WHO, Good Manufacturing Practice (1992), clause 1.
38 Id., clause 3.
39 Ibid.
40 Id., clause 3.2. The basic requirements of quality control of pharmaceutical products are:

a) Adequate facilities, trained personnel and approved procedures must be available for sampling, inspecting and testing starting materials, packaging materials, and intermediate, bulk and finished products.

b) Samples of starting materials, packaging materials, intermediate products, bulk products and finished products must be taken by methods and personnel approved of by the quality control department.

c) Test methods must be validated.

d) Records must be made demonstrating that all the required sampling, inspecting and testing procedures have actually been carried out and that any deviations have been fully recorded and investigated.

e) The finished products must contain ingredients complying with the qualitative and quantitative composition of the product described in the marketing authorization. The ingredients must be of the required purity, in their proper container and correctly labeled.
The GMP also provides for complaints handling, product recalls and self-inspection and quality audits.

**Good Practices in Production and Quality Control**

All operations relating to production as per GMP guidelines must follow clearly defined procedures in tune with the manufacturing and marketing authorizations. All handling of materials and products should be done in accordance with written procedures or instructions. Testing requirements in the guidelines say that before delivery of materials for use, the quality control manager should ensure that the materials have been tested for conformity with specifications for identity, strength, purity and other quality parameters. The quality control department should evaluate the stability and quality of finished pharmaceutical products and when necessary, of starting materials and intermediate products. A written programme for ongoing stability determination is suggested to be developed and implemented in the establishment. Systems guidelines percolating into minutest details are dealt with in the GMP of the WHO.

**WHO Certification of Pharmaceutical Products in International Commerce**

The WHO certification scheme is an administrative instrument that requires each participating state, to alert the competent authority of another participating state. This can be done on an application made by an interested member state. Under this

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41 Id., clause 6.
42 Id., clause 7.
43 Id., clause 9.
44 Id., clause 15.
45 Id., clause 15.2.
46 Id., clause 16.8.
47 Id., clause 16.17.
48 The World Health Assembly endorsed this scheme in May 1992.
scheme, information regarding the following matters can be notified to the concerned authority:

(a) A specific product is authorized to be placed on the market within its jurisdiction or, if it is not thus authorized, the reason why that authorization has not been accorded;

(b) The plant in which it is produced is subject to inspections at suitable intervals to establish that the manufacturer conforms to GMP as recommended by WHO; and

(c) All submitted product information, including labeling, are currently authorized in the certifying country.49

As per this certification scheme, the importing country is assured of the quality of the pharmaceutical products imported into its territory from another member state. A state intending to use the scheme should satisfy itself that it possesses the following national systems:

(i) An effective national licensing system, not only for pharmaceutical products, but also for the responsible manufacturers and distributors exist;

(ii) GMP requirements, consonant with those recommended by WHO, are to be complied with all manufacturers of finished pharmaceutical products;

(iii) Effective controls to monitor the quality of pharmaceutical products registered or manufactured within the country are adopted. This should include access to an independent quality control laboratory.

49 Para 1.3 of the scheme.
(iv) A national pharmaceutical inspectorate is established; which operate as an arm of the national drug regulatory authority, and having the technical competence, experience, and resources to assess whether GMP and other controls are being effectively implemented. It should have the legal power to conduct appropriate investigations to ensure that the manufacturers conform to these requirements;

(v) The state should have administrative capacity to issue the required certificates and also to institute inquiries in the case of complaint. It should notify expeditiously both to WHO and the competent authority in any member state known to have imported a specific product that is subsequently associated with a potentially serious quality defect.

The question whether a country has satisfied the above pre-requisites is a matter for that country to determine by self-evaluation. No external agency is provided for in the scheme for inspection or assessment.

By the joint adoption and operation of the GMP and the certification scheme, the quality of medicinal products is maintained to a large extent. But it is an accepted fact that many developing countries could not adopt the GMP and the certification scheme of the WHO for economic reasons. Even those countries can try to introduce changes in their manufacturing practices of pharmaceutical products at least incrementally. However, the WHO has done a commendable job in providing for GMP guidelines for the drug industry of the globe.

**National Standards in India**

Whatever may be the standards prevailing at the global level, national governments, taking into account the stage of development of the economy and other relevant factors, can lay down quality standards for various goods. The Government
of India also has prescribed standards for many goods including agricultural and industrial products. In certain instances these standards are made compulsory. But in most cases it remains within the domain of volition of the manufacturers. The major standardisation schemes prevalent in India are those coming under the Fruits Products Order, 1955, the Bureau of Indian Standards Act, 1986 and the Agricultural Produce Grading and Marking Act, 1937

**Fruits Products Order and FPO Mark**

The Essential Commodities Act, 1955 authorizes the Central Government to regulate the quality production of essential commodities by issuing appropriate orders.\(^50\) The Fruit Products Order, 1955 is an important order issued under the Act. This order envisages a compulsory licensing scheme for manufacturing fruit products\(^51\). It also insists that manufacture of fruit products shall be in conformity with the sanitary requirements and quality standards that are specified\(^52\). The FPO licence number granted to the manufacturer must be exhibited prominently on the side label of the container or bottle in which the fruit product is packed and sealed\(^53\).

It is the Central Fruit Product Advisory Committee constituted by the Central Government, that prescribes the standards of quality of various fruit products.\(^54\) This Committee consists of technical experts in the field together with representatives from the fruit products industry, vegetable growers and one representative from consumer

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\(^50\) The Essential Commodities Act, 1955,3. Several orders were issued by Governments, Central and State, to regulate, the quality and price of many goods.

\(^51\) The Fruit Products Order, 1955, clause 4.

\(^52\) Id., clause 7. The standards of quality and composition of each fruit product is specified in the second schedule to the Order.

\(^53\) Id., clause 8 (b) and (c).

\(^54\) Id., clause 3.
organisations. It is based on the advice of this committee that the Central Government lays down the standards of quality and composition of fruit products.

It can be seen from the constitution of the committee that all interests affected are given representation in the committee. The difficulties faced by the manufacturers get due recognition at the stage of formulation of the standard itself. The Consumers also get an opportunity to ensure that their interests are not sidelined in the standard setting process. This enables the administrative agency to strike a fair balance between the conflicting interests. Fruit products thus manufactured through licensed production units following standards of quality, composition and hygiene provides an assurance to the consumer that it is of the quality prescribed by government.

The Licensing Authority can seek information from any manufacturer about the manufacture and disposal of any fruit products manufactured by him. The Licensing Officer can enter and inspect any premises of the licensee or manufacturer to satisfy himself that the requirements of the Order are being complied with. He is empowered to seize or detain any fruit products manufactured, marked, packed or labeled otherwise than in accordance with the Order or in contravention of the Order. He can also seize or detain any raw materials, documents, account books or other relevant evidence connected with manufacture of fruit products. The Licensing Officer is also empowered to take samples of any fruit product and send it for analysis in order to ensure that it is of the required standard. The Licensing

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55 Consumer representative was allowed only from 30.6.1997 vide clause 5 of the Ministry of Food Processing Industries Order No.S.O.1530 dated 30-6-1997.
56 The Fruit Products Order 1955, clause 13.
57 Id., clause 13 (b)(i).
58 Id., clause 13 (b)(ii).
59 Id., clause 13 (d).
Officer can prohibit the sale or manufacture of fruit products for contravention of the Order.

According to the Order any beverage that does not contain at least twenty five percent of fruit juice in its composition shall not be described as fruit syrup, squash or crush. It shall on the contrary be described as 'non-fruit syrup'. Containers containing any such ‘non-fruit’ products shall not have anything printed or labelled on it that may lead the consumer to believe that it is a fruit product. The use of the term ‘fruit’ to describe such a product and the use of the label that carries the picture of any fruit is prohibited by the Order.

It can be seen that the mandatory licensing scheme, confers vast powers on the Licensing Officer to enter, inspect, seize, suspend or cancel a license. Criminal prosecution for contravention is also envisaged. Thus, the FPO appears to be very much consumer oriented. However, one inherent weakness of this Order is the restriction as to institution of prosecution for violation of its provisions. Prior permission of the Licensing Officer is essential for launching prosecution. In the changed consumer context, it is laudable if the Order is so amended, enabling consumers and consumer associations to institute prosecutions. This will ensure better consumer participation in the implementation of the Order.

60 Id., clause 13 (f).
61 Id., clause 11.
62 Ibid.
63 Id., clause 11(2).
64 Ibid.
65 Id., clause 15.
Grading and Labeling

Grading and Labeling is yet another method of standardization popular among the consumers. The Agricultural Produce (Grading and Marking) Act, 1937 provides for the grading and marking of agricultural and other allied commodities. This is used for making available quality agricultural produce including horticulture and livestock produce to the consumers. Under this Act, the Central Government is authorised to make rules fixing grade designation to indicate the quality of an article. It can also specify the 'grade designation mark' to represent a particular grade. Grade designation as per the Act means a designation prescribed as indicative of the quality of an article mentioned in the schedule. The insignia used for grading is 'AGMARK'.

Articles that are properly graded and marked by an authorized agency are very much helpful to the consuming public to determine the quality choices available to them. Grading and marking under the Act was purely voluntary till 1986. It is now possible for the Central Government to introduce compulsory grading with respect to commodities where such grading is necessary in the public interest or to afford better protection to consumers.

Procedure for 'Agmark' Labeling

An 'Agmark' label under the Act comprises of labels that specify the name of the commodity, the grade designation and the prescribed insignia. Grading and

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66 The Agricultural Produce (Grading and Marking) Act, 1937, 83.
67 The items for which quality can be determined are given in the Schedule.
68 Id., s.2 (d).
69 Once such a notification introducing compulsory grade designation is issued by the Central Government, sale or distribution of any such article is made an offence. Id., s. 5-B.
70 See the General Grading and Marking Rules, 1988, rule 2(c).
marking of an article under the Act is usually done by the person authorised by the Agricultural Marketing Adviser or an authorized officer of the Central or state governments\textsuperscript{71}. When an application to grant a certificate of authorisation is received, the concerned authority looks into the bona fides of the application by an inspection of the premises, laboratory and processing units of the applicant. On being satisfied of the requirements, the Agricultural Marketing Adviser issues a certificate of authorisation to the applicant\textsuperscript{72}. The applicant will have to establish a laboratory of his own or ensure access to a State Laboratory if the goods require laboratory testing for quality assessment\textsuperscript{73}. He should also seek the services of approved chemists for chemical analysis\textsuperscript{74}. A certificate of authorisation issued is liable to be suspended or cancelled if it is found that the grade designation is marked incorrectly\textsuperscript{75}. Similar consequence will follow if there is a violation of the provisions of the Act, Rules or instructions\textsuperscript{76}. Punishment is prescribed for selling misgraded articles\textsuperscript{77}. The aggrieved person, and recognized consumer organizations are also permitted to launch prosecutions\textsuperscript{78}.

In addition to the original list of items sixty new items, have been added to the schedule\textsuperscript{79}. In spite of introduction of the new provision for compulsory grade designation of articles, it is doubtful whether any notification has been issued so far

\textsuperscript{71} Id., rule 3.
\textsuperscript{72} Id., rule 3(6). For commodities that require laboratory testing for quality assessment the applicant will have to establish his own laboratory or have access to an approved State Grading Laboratory. See rule 8.
\textsuperscript{73} Rules 8 and 9.
\textsuperscript{74} Ibid.
\textsuperscript{75} Ibid.
\textsuperscript{76} Ibid.
\textsuperscript{77} See the Agricultural Produce (Grading and Marking) Act, 1937, s.5A. The punishment and fine prescribed has also been enhanced by the amendment of the Act in 1986.
\textsuperscript{78} Id., s.5 C.
\textsuperscript{79} This is done in exercise of powers under section 6 of the Act.
making grade designation obligatory. It is high time that the consumers and consumer associations shall take the lead in inspiring the Central Government to make grade designation compulsory at least for food products. Gradually, it can be extended to other articles also. This will motivate agriculturists to produce items of high grade since it is likely to fetch them more prices in the market. In the highly competitive market of the present day world, high-grade quality goods alone can withstand the market pressure of elimination. Government and governmental agencies can take the lead by insisting that they procure and deal only in goods and products that are grade marked. Governments shall also ensure that manufacturers who opt for grade marking get the maximum commercial advantage. For this purpose, governments should device effective mechanisms. Governmental efforts, coupled with the commercial advantage, would certainly encourage others to come in line. If businessmen do not voluntarily adopt grade marking, it is essential that the government shall, in public interest, introduce a compulsory scheme for grade marking incrementally.

The Eco-mark Labeling

Many goods that are produced and sold in the market may cause severe threat to the quality of environment. Environmental degradation as a result of the production and consumption of certain goods has evoked the attention of governments only recently. Britain is considered as the world leader in development of eco-auditing and environmental management systems. There are at least three main systems in operation in the U.K. They are (1) the environmental management system

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80 Governmental measures to encourage manufacturers to go for grade marking may include, tax concessions, subsidies and publicity.
developed by the British Standards Institute in 1994, (2) the Eco management and
Audit Scheme\textsuperscript{82} Regulation of 1993 and (3) the Environment Management Standards
developed by the International Organisation for Standardisation\textsuperscript{83}. In addition, there
is the European Community Regulation\textsuperscript{84} through which an Eco-labeling Board has
been established in November 1992. Based on these labeling schemes, criteria are
developed to enable the analysis of the environmental impact of a product.

**Eco-mark Labeling in India**

In India, the Environment Protection Act, 1986, empowers the Central
Government to adopt and implement measures similar to those existing in England.
The planning and execution of nationwide programmes for the prevention and control
of pollution and laying down of standards for the quality of environment are
legitimate functions of the Government.\textsuperscript{85}. In tune with these requirements, the
Ministry of Environment and Forests, Government of India, has formulated a scheme
on labeling of environment friendly products. Household and other consumer
products can be labeled as satisfying environmental criteria. This is done in addition
to the quality requirements laid down by the Bureau of Indian Standards. This label is
known as ‘Eco mark’. The scheme provides for incentive to the manufacturers and
importers for measures taken towards the reduction of adverse environmental impact
of their products. The ‘eco mark’ also helps consumers to become environmentally
responsive by providing necessary information to consider environmental factors also

\footnotesize\textsuperscript{11} For a brief account of the three systems operating in England, see, Stuart Bell, *Ball and Bell on
\footnotesize\textsuperscript{12} This scheme is popularly known as EMAS.
\footnotesize\textsuperscript{13} This is known as ISO 14000.
\footnotesize\textsuperscript{14} Regulation No. 880/92 EEC.
\footnotesize\textsuperscript{15} The Environment Protection Act, 1986, ss.3 (1), 3(2)(ii) and 3(2)(iii).
in their purchase decisions. It is expected that these measures would help to improve quality of the environment leading to sustainable management of resources.86

The scheme is made operative through the establishment of three committees. The steering committee87 determines the product categories for which labeling is required. A technical committee identifies the specific product on individual criteria.88 The Bureau of Indian Standards is the authority, which assess and certify the product.89

The consumers and industries are given representation in the Steering Committee set up by the Central Government. This Committee apart from identifying product categories, formulates the strategies for promotion, future development and improvement of the scheme.90 The Technical Committee determines the criteria for awarding eco mark.91 This Committee is composed of technical experts and representatives from industry and consumer groups nominated by the Central Government92. Once the criteria for awarding ‘eco mark’ are laid down, the implementation of the scheme is the responsibility of the Bureau of Indian Standards.93 The Bureau discharges this function by its usual procedure of inspection, assessment, certification, licensing and cancellation of licenses94. Eco mark is often allowed to be affixed to a product by the Bureau in terms of a licence granted to a

87 Id., clause 3(1).
88 Id., clause 3(2).
89 Id., clause 3(3).
90 For the functions and composition of the Steering Committee, see id., clause 3.1.1.
91 The functions assigned to the Technical Committee and its composition is outlined in clause 3.1.2. The criteria for Eco-mark are outlined in clause 5 of the order.
92 Ibid.
93 Id., clause 3.1.3.
94 Ibid.
manufacturer who applies for testing and certification of his products. The procedure for granting licenses shall be the same as in the case of other licenses under the Bureau of Indian Standards Act, 1986. The criteria for awarding 'eco mark' are subject to revision from time to time. Therefore, the license awarded may also be reviewed accordingly. A licensed product under the scheme can carry the logo for the eco mark, which ensures the environment friendly nature of the product.

The 'eco mark' guarantees environment friendly quality of the goods covered by it. If the 'eco mark' is coupled with the quality mark of the Bureau of Indian standards, it is certainly ideal for the consumer. But, both the quality mark of BIS and 'eco mark' are not made compulsory. The businessmen may not opt for taking the trouble to acquire the eco mark logo, unless it confers on them positive commercial advantages. When consumers become aware of the usefulness of environment friendly products, they will give preference to products covered by 'eco-mark'. What is required is to create maximum consumer awareness about the virtues of 'eco-mark', which is considered as an avowed objective of the 'eco-mark' scheme.

The Bureau of Indian Standards and the ISI Mark

The significance of a system of national standards in the creation of a dynamic industrial society was realized even before India’s independence. Thus before the process of industrialization actually took its roots in India, the Indian Standards Institution (ISI) was set up. This helped to initiate the necessary spadework

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95 Ibid. See also, P. Leelakrishnan, Environmental Law in India, Butterworths India, New Delhi (1999), p.103.
96 The criteria for ‘eco-mark’ have been broadly laid down in clause 5 of the Order.
97 Id., clause 6.
98 See the Eco-mark scheme, clause 8.
99 The Indian Standards Institution was registered as a society in January 1947, under the Societies Registration Act, 1860.
required for the foundation of a strong industrial base. As the wheels of industry started rolling one after the other, the ISI expanded its operations in a planned manner. This enabled the ISI to meet the growing demand to lay down standards and prescriptions oriented to the country's available material resources and manufacturing capacity.\textsuperscript{100}

During the years, the industrial and agricultural sectors have undergone structural and qualitative transformation to a large extent. The necessity for giving an added thrust to standardization and quality control was felt during 1986. This resulted in the passing of the Bureau of Indian Standards Act, 1986.\textsuperscript{101} Today BIS has sufficient network of regional and branch offices at metropolitan and other industrial centers all over the country, besides its head quarters at New Delhi.

The Bureau of Indian Standards is responsible for setting up of and maintaining Indian Standards\textsuperscript{102} for products and process of manufacture. The BIS functions as a purely voluntary organization. No producer is obliged to get its quality mark affixed on his products. The working of the Bureau can be summarized as follows.\textsuperscript{103}

\textsuperscript{100} A.K.Gupta, "Indian Standards Conventions—A View in Retrospect", \textit{The Indian Express}, Trivandrum, Jan. 17, 1982, p.10.

\textsuperscript{101} The Bureau of Indian Standards Act, 1986, \textit{the Statement of objects and reasons}. This Act is intended to enable the BIS to formulate standards and other related matters, which were not governed by the earlier legislation. Hereinafter the institution is referred to as BIS.

\textsuperscript{102} The Bureau of Indian Standards Act, 1986 s. 2(g) reads as follows: 'Indian Standard' means the standards (including any tentative or provisional standard) established and published by the Bureau, in relation to any article or process indicative of the quality and specification of such article or process and includes: -

(i) any standard recognized by the Bureau under clause (b) of Section 10; and

(ii) any standard established and published or recognized by the Indian Standards Institution and which is in force immediately before the date of establishment of the Bureau.

\textsuperscript{103} Functions of the Bureau are given in section 10 of the Bureau of Indian Standards Act, 1986.
The BIS has the power to establish, publish and promote Indian Standards in relation to any article or process.\(^\text{104}\) It can recognize as an Indian standard, any standard established by any other institution in India or elsewhere, concerning any article or process.\(^\text{105}\) The BIS can design and specify the 'standard mark' of the institution to represent a particular 'Indian standard' and may grant, renew, suspend or cancel a license for the use of the standard mark.\(^\text{106}\) In relation to any article or process to which a standard mark has been used, the BIS may make such inspection and take samples of those materials, to ensure that they conform to the standard.\(^\text{107}\) For a fertile exercise of its powers, the BIS is empowered to establish, maintain and recognize laboratories for standardization and quality control.\(^\text{108}\) Standard formulation is the outcome of long research, which the BIS is supposed to carry out.\(^\text{109}\) It can do it by itself and also through institutions recognized by it.\(^\text{110}\)

Standardization requires specified production procedure and quality checking at all stages. The BIS can provide its services to consumers and manufacturers of articles and can also appoint agents in India or outside for inspection and testing.\(^\text{111}\) Moreover, it can co-ordinate the activities of any association of manufacturers or consumers engaged in standardization and improvement of the quality of any article or process.\(^\text{112}\) The use of standard designation mark of the BIS is restricted through

\(^\text{104}\) Id., s. 10 (1)(a).
\(^\text{105}\) Id., s. 10 (1)(b).
\(^\text{106}\) Id., s. 10 (1)(c) & (d).
\(^\text{107}\) Id., s. 10 (1)(e).
\(^\text{108}\) This power can be exercised even in cases were the mark is used without a license.
\(^\text{109}\) Id., s. 10 (1)(f).
\(^\text{110}\) Id., s. 10 (1)(h).
\(^\text{111}\) Id., s. 10 (1)(i).
\(^\text{112}\) Id., s. 10 (1)(k) & (l).
licences. A licence under the Act will be granted for use of the standard designation mark in relation to any article or process only when such article or process conforms to the prescribed standard. Improper use of the standard mark would invite punishment. The property in question will also be liable for forfeiture.

The BIS Certification Scheme

The BIS has provided a certification scheme, under which manufacturers are licenced to use the standard mark on their goods. Any producer having the requisite production and testing facilities may apply for a licence under the scheme. The Bureau may authorize him to use the standard mark on his products if the manufacturer is entitled to it. For this purpose, the BIS processes the application received from manufacturers. The inspection and testing facilities maintained by the applicant is assessed with the help of information supplied in the prescribed form or supplementary information furnished.

Inspection

The Bureau can make spot enquiry through its inspectors to verify the evidence produced by the applicant. For this purpose it may direct the applicant to afford facility to the inspecting officer. The spot inspection is made for an appraisal of the controls exercised by the manufacturer during production. The facilities available for carrying out tests on the raw materials at the in-process stages

113 Id., s. 11.
114 Id., s.11 (2).
115 Id., s.33. The penalty prescribed is imprisonment for a term up to one year or a fine up to fifty thousand rupees or both.
116 Id., s.33 (2).
117 For a detailed procedure see the Bureau of Indian Standards (Certification) Regulations, 1988.
118 Id., sub clause 6(c) of regulation 3.
of production and on the final product are also judged. Inspection of the office, workshop, testing laboratories and go downs are also made.\textsuperscript{119}

For the purpose of determining the quality of the product, the applicant is required to submit samples of the product to the testing authority\textsuperscript{120} of the Bureau.\textsuperscript{121} On the basis of the Inspector's report and the report of the testing authority, the Bureau may direct the applicant to carryout alterations or additions or both to the scheme of testing and inspection or to the process of production.\textsuperscript{122}

The Bureau may grant a licence authorizing the applicant to use such standard mark in respect of the article or class of articles manufactured by him on the basis of satisfaction arrived as above.\textsuperscript{123} The licence can be subject to such conditions as the BIS may deem fit to impose.\textsuperscript{124} The licence can also be renewed.\textsuperscript{125} It is possible for the BIS to alter the terms and conditions attached to a licence during the operation of its tenure after giving notice to the licensee.\textsuperscript{126}

Protections against rejection of application on frivolous or vexatious grounds are provided in the Act. If the application is to be rejected, the BIS must give an opportunity to the applicant of being heard either in person or through a representative

\textsuperscript{119} \textit{Ibid.}

\textsuperscript{120} The Bureau of Indian Standards Rules, 1987, rule 10(2)(b) require the BIS to maintain a Register of Recognized Laboratories for testing of samples.

\textsuperscript{121} \textit{Id.}, sub clause 6(d).

\textsuperscript{122} \textit{Id.}, sub clause 6(e).

\textsuperscript{123} \textit{Id.}, regulation 4(i).

\textsuperscript{124} \textit{Id.} See also, regulation 5. This regulation gives a long list of conditions of a license. The license given shall be in the prescribed form and for a prescribed period.

\textsuperscript{125} \textit{Ibid.}

\textsuperscript{126} \textit{Id.}, regulation 4(3). The notice period is one month.
authorized by him. 127 Before a final order of rejection is passed the BIS shall take into consideration the facts and explanations submitted by the applicant. 128

**Measures Ensuring Compliance with the Standards**

Mere granting of a licence and the investigations conducted prior to such grant need not always assure quality. Monitoring is required during the whole period of the licence. Therefore, provisions are made for periodical inspection and testing. There is even provision for revocation of the licence.

Every licensee under the Act is obliged to establish and maintain a system of control to keep up the quality of his product or process. For this purpose a scheme of inspection and testing is made condition of the licence. This is insisted to ensure that the articles or processes comply with the relevant standard. In addition, the licensee is obliged to maintain a full record of the inspections and tests 129. These records subject to verification by the Inspectors. 130

The BIS, as per the Act, should arrange at least two inspections a year in respect of each licence granted. 131 The Inspectors appointed under the Act have been granted wide powers 132. These powers include authority to:

- enter and inspect any premises in which any licensed article is produced or process is carried out;

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127 Id., regulation 4(4).
128 Ibid.
129 Id., regulation 5(4).
130 Ibid.
131 Id., regulation 5(13).
132 The Bureau of Indian Standards Rules, 1987, rule 21. This rule deals with the powers of the Inspecting Officer.
b) inspect and take samples of any article or any material used in the manufacture of such article;

c) inspect any process and examine the records kept by the licensee and

d) enter into and search such place, premises or conveyance for such article or process and seize such articles.\textsuperscript{133}

So, it is clear that the inspection can be made with regard to any article or process to which the standard mark has been used. This power extends to inspecting the premises of manufacturers using the mark without licence or violating the conditions of licence.

Protection Against Abuse of Power by Inspectors

As a measure to minimize the possible abuse of power by Inspectors, it is provided in the Act that before any inspection of the premises of a licensee, it is necessary to give a reasonable notice\textsuperscript{134} to the occupier. He can take samples of any article or other substance only in the presence of the licensee or a responsible person belonging to the establishment\textsuperscript{135}. If demanded, the Inspector can, at his discretion, take duplicate samples and give one sample to the licensee\textsuperscript{136}. However, the inspecting officer can take samples of articles marked with the standard mark from the godowns or premises of any agent of the licensee or from open market.\textsuperscript{137}

The inspector may enter into any premises during the usual business hours. This is to ensure that the standard mark is being used in accordance with the terms

\textsuperscript{133} The procedures that are to be complied with while inspecting, are given in regulations 5(11) and (12) of the Bureau of Indian Standards (certification) Regulations, 1988.

\textsuperscript{134} The Bureau of Indian Standards (Certification) Regulations 1988, regulation 5(11)(a).

\textsuperscript{135} Id., regulation 5(11)(b).

\textsuperscript{136} Id., regulation 5(11)(c).

\textsuperscript{137} Id., regulation 5(12).
and conditions imposed by the BIS. He can also verify whether routine inspection and testing specified by the Bureau is being correctly followed.\textsuperscript{138} The Inspector is also empowered to inspect any process in those premises. Besides, he may examine the records kept by the licensee relating the use of the standard mark.\textsuperscript{139} Every licensee is obliged to provide all reasonable facilities to the Inspector in the discharge of his duties. Any failure in this regard may give rise to suspension or cancellation of the licence.\textsuperscript{140}

**Inspection of the Premises of a Non-licensee**

Since the standard mark as to quality is apt to canvass consumers, it is likely to be misused by unscrupulous manufacturers or sellers. BIS, an institution established for the purpose of formulating and maintaining quality standards in relation to goods, is also empowered to see that the licensees as well as non-licensees do not abuse the privileges granted by the certification mark. The Act and the Rules enables the inspecting staff of the Bureau to enter into and search any premises or conveyance for detecting contravention of the Act.\textsuperscript{141} If as a result of the search, any article or process has been found to contravene the provisions of the Act,\textsuperscript{142} the Inspector can seize such article and use it as evidence in any proceedings under the Act.\textsuperscript{143} If seizure is found impracticable, the Inspecting Officer may issue an order that the party shall not remove or part with or otherwise deal with the article without the previous

\textsuperscript{138} The Bureau of Indian Standards Rules, 1987, rule 21(a).
\textsuperscript{139} Id., rule 21(d).
\textsuperscript{140} The Bureau of Indian Standards (Certification) Regulations, 1988, regulation 3(6) (c).
\textsuperscript{141} The Bureau of Indian Standards Act, 1986, s. 26. Also see, the Bureau of Indian Standards Rules 1987, rule 21.
\textsuperscript{142} S. 11 prohibits the use of standard mark except under a license and s. 12 prohibits the colourable use of name similar to 'Indian Standard' or Indian standard specification without permission of the BIS.
\textsuperscript{143} The Bureau of Indian Standards Act, 1986, s.26(2).
permission of the officer.\textsuperscript{144} The Inspecting Officers are given the powers of the police under the Code of Criminal Procedure, 1973 in respect of search and seizures.\textsuperscript{145}

Persons making improper use of standard mark are punishable\textsuperscript{146}. Forfeiture of property in respect of which the contravention has taken place can also be resorted to.\textsuperscript{147} Since the use of the standard mark is limited exclusively to the licensees and the use of the name resembling the name of the BIS and the 'Indian Standard' are restricted, contravention on any of these grounds can similarly be penalized under the Act.\textsuperscript{148}

**Power to Call for Information**

In addition to the periodical inspection carried on by the Bureau through its Inspectors, it can seek information from any licensees. They are obliged to supply to the Bureau the information demanded.\textsuperscript{149} Similarly, it can ask the licensees to supply the samples of any material or substance used in relation to any article or process.\textsuperscript{150}

**Suspension and Cancellation of License**

Penal provisions by way of imprisonment and fine or confiscation of the property\textsuperscript{151} are supplemented by the power to suspend or cancel the licence. This can be done in the event of improper use of the 'standard mark'. The Bureau can make suspension or cancellation of a licence in the following circumstances:

\textsuperscript{144} Id., s.26 (2), proviso.
\textsuperscript{145} Id., s.26 (3).
\textsuperscript{146} Id., s.33. The punishment may be either imprisonment or fine.
\textsuperscript{147} Ibid.
\textsuperscript{148} Ibid.
\textsuperscript{149} Id. s.28.
\textsuperscript{150} Ibid.
\textsuperscript{151} See the Bureau of Indian Standards Act, 1986, s.33.
i) The articles marked with the 'standard mark' under license do not comply with the related 'Indian standard'.

ii) The licensee has used the 'standard mark' in respect of a process, which does not come up to the 'Indian standard'.

iii) The licensee has failed to provide reasonable facilities to the inspector to discharge his duties.

iv) The licensee has failed to comply with the terms and conditions attached to the licence.¹⁵²

Prior to an order of suspension or cancellation of the licence, the BIS must give the licensee at least two weeks notice.¹⁵³ Within seven days of receipt of the notice, the licensee may submit his explanation.¹⁵⁴ The licensee shall also be given a hearing within the period prescribed.¹⁵⁵ But if no explanation is submitted, the Bureau may, on the expiry of the notice period, proceed to suspend or cancel the licence.¹⁵⁶ The fact that a licence has been suspended or cancelled will be published in the Official Gazette.¹⁵⁷

The suspension and revocation of licence may lead to serious civil consequence to the licensees. It is an accepted principle of administrative law that such powers are subjected to judicial scrutiny. The BIS certification being a voluntary scheme, there had been hardly any case law available on this aspect.

¹⁵² See the Bureau of Indian Standards (Certification) Regulations, 1988, regulation 5(3).
¹⁵³ Id., regulation 5(5)(b).
¹⁵⁴ Id., regulation 5(5)(c).
¹⁵⁵ Ibid.
¹⁵⁶ Id., regulation 5(5)(d).
¹⁵⁷ Id., regulation 5 (6).
Duty to Stop Standard Marking

The quality control system existing in a licenced manufacturing process may get interrupted due to certain machineries going out of order. This in turn is likely to affect the quality of the end product. In such circumstances, the licensee shall stop marking the product with the 'standard mark' under intimation to the BIS.\textsuperscript{158} It is possible for the licensee to resume such marking as soon as such defects are removed and the BIS is informed.\textsuperscript{159} Similarly, if the Bureau is satisfied that the product carrying the 'standard mark' is not conforming to the 'Indian standard' prescribed, it can direct the licensee to stop marking of such product.\textsuperscript{160} The resumption of marking of such product shall be permitted only if the licensee satisfies the Bureau about the rectification of the deficiencies.\textsuperscript{161}

Standard Promotion Strategies

Formulation of standards and their implementation are of equal importance. The object of implementation can be achieved only if the concept of standardization has permeated into each and every productive effort. The BIS promotes the idea of standardization through mass media, seminars, symposia, lectures and exhibitions, conduct of conventions and quality assurance services.

i) Standard Conventions

The Bureau also organizes standards conventions in different parts of the country. It is meant to arouse 'standard consciousness' among public and producers.

\textsuperscript{158} ld., regulation 5(7)(a).
\textsuperscript{159} Ibid.
\textsuperscript{160} ld., regulation 5(7)(b).
\textsuperscript{161} Ibid.
If also take stock of the latest trends of development within and outside the country in different technical fields and their impact on standardization programmes.

Indian standards conventions are designed to discuss problems affecting specific areas in relation to standardization and quality control. Implementation of Indian standards and operation of the certification marks scheme are also discussed in the conventions. This also provides a feedback to the BIS on the needs and problems of the industry with special reference to standards and standardization. It also helps the Bureau to take stock of the work accomplished in different fields and chalk out new directions for the future. The Indian standards conventions thus play a notable role in taking the message to the doorstep of individual entrepreneurs in the region in which they are organized.

The programmes for the conventions are selected after considerable thought with a view to focusing attention on issues and themes of topical interest. The venue is selected keeping in view, its importance as a center of activity in relation to a particular industry and also the question of 'standards consciousness' prevailing in the area. The papers presented not only form the basis for discussion at the sessions, but are also considered for further action by the relevant committees of the BIS.

This procedure has been found to be extremely useful in bringing up issues requiring elucidation and in promoting useful exchange of ideas and information. Besides, visits into selected industrial units are also arranged to give the participants an idea of the industrial development strategies.

163 Ibid.
The conventions bring together high-ranking experts, scientists, technologists and top officials from central and state governments, to take part in the deliberations. Participants from research and industry, trade and commerce, producers and consumers are invited to the conventions. Thus the consumers also get an opportunity to air their views about the issues affecting their interests.

The topics covered by the past conventions include safety in electrical appliances and information labeling of consumer goods. The 1982 convention gave more importance to other consumer problems. It discussed the problems and prospects concerning mandatory standards for consumer protection, quality grading in Indian standards, standardization for development of automobile industry and quality control and standardization in handloom industry.

Over the years, it is claimed that Indian standards conventions have been successful in creating greater awareness about the necessity for quality control in different parts of the country. As a result, in plant and inter-plant standards activity has received considerable impetus. More and more industries are coming forward to cover their products under the certification marks scheme of the Bureau.

ii) Quality Assurance Services

It may not be possible for many industries, manufacturers and sellers to understand and implement the scheme of inspection and testing, as envisaged by the BIS. Many of them may find it difficult to know even what all testing schemes the Bureau would recognize as sufficient for the purpose of certification. In order to assist

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164 Ibid.
165 Ibid.
166 Ibid.
these manufacturers or producers, who themselves are unable to arrange for a standard system of routine inspection and testing, the BIS administers a Quality Assurance Service.\textsuperscript{167} The terms and conditions of such service are generally on the basis of mutual agreement. The services may be provided either to groups of manufacturers or as in-house quality improvement in manufacturing or processing units.\textsuperscript{168}

In addition to the major job of formulation and implementation of quality maintenance and improvement, the Bureau may provide information, documentation and other services to consumers and recognised consumer organisations.\textsuperscript{169}

**Compulsory Standard Marking**

According to the scheme of the Bureau of Indian Standards Act, 1986, it is optional for producers to get BIS certification. The quality control processes certainly involve additional expenditure. Economic factors may operate as a deterrent to many who otherwise would have strived to obtain quality certification. A scheme of voluntary quality certification may be sufficient for many products. But for some, quality may be highly essential to protect the health and safety of human beings. Therefore, it becomes necessary to make quality marking compulsory at least for those products that are likely to cause threat to the life and security of the buyer. Hence, on the ground of public interest, the Central Government, in consultation with the Bureau may order that any article or process of an industry shall conform to the

\textsuperscript{167} Bureau of Indian Standards (Certification) Regulations 1988, regulation 7. The services include application of statistical quality control techniques aimed at improving design development, process control and process capabilities.

\textsuperscript{168} Ibid. Also see, Bureau of Indian Standards Rules, 1987, rule 13.

\textsuperscript{169} The Bureau of Indian Standards Rules, rule 13 (c). It is worthwhile to note that the Bureau consists of among others, ten persons representing consumers, representatives of recognised consumer organisations and persons capable of representing consumer interests. Also see, the Bureau of Indian Standards Rules, 1987, rule 3.
Indian standard and the use of 'standard mark' under a licence be compulsory on such article or process. This provision is a welcome measure for promoting consumer interest. The government can, after taking into account the stages of industrial development, needs of the consuming public and the interests of the citizenry at large, implement the mandatory standards incrementally without doing much violence to the industry as such. However, what can be seen is that only inherently dangerous products like electrical appliances, petroleum products and some engineering products alone are brought under compulsory certification scheme. A far more beneficial exercise of power by the Government is necessary in the present day market situations where manufacturers and sellers from the entire globe compete to establish themselves. Such a bias in favour of the consumers is necessary to afford better consumer protection especially in the context where much of the consumers remain un-organized.

Indian Standards and the Global Market

The very purpose of globalisation is to ensure free flow of goods and services between countries. This gives customers the benefit of having the choice of goods and services from anywhere in the world to suit their needs and tastes. However, trade barriers in the form of diverse product standards among nations come in the way of such free flow. Difference in standards means diversity in quality. Standards that are universally recognised became prominent in the world market situation. The 1997

170 The Bureau of Indian Standards Act, 1986, s14. BIS have brought in about 120 products for mandatory certification.
'World Standards Day' selected 'World trade needs worldwide standards' as the theme. This shows the growing concern for universal standards.

The study reveals that there are national and international agencies to assess not only product standards but also process standards. This ensures continuous maintenance of quality standards. The certification schemes adopted by the Bureau of Indian Standards and other agencies, national and international, are salutary and advantageous to consumers. But accreditations by these agencies are more often voluntary. True, that market forces do exert a lot of pressure on producers to go for standard marking. National governments may insist on standard marking compulsory for certain products considering the safety and health hazards. This apart, maintenance of quality standards remains purely a voluntary affair for individual manufacturers to decide upon.

Public interest is the ground on which standard marking can be made compulsory. If public interest is the governing criteria, compulsory marking should be applied in most of the products and services. But standard marking is made compulsory in very limited cases at present. It is not because the public is not interested in compulsory marking. Consumers always aspire for compulsory standard marking. Conferring a mark of quality as recognition of compliance with certain specified standards is advisable in any market economy. Obviously, well-educated consumers will benefit more out of it. Illiterate may not know the real difference

\[171\] For a brief discussion on the necessity of universal standards, see M.S.S. Varadan, "Need for World-wide Standards", The Hindu, Trivandrum, Oct. 15, 1997, p.27. The theme selected in 1998 was 'Standards in Daily Life'.

\[172\] Supra n. 93. Certain manufacturers who purchase product components from other manufacturing concerns do insist on quality marking on the wares they purchase

between a standard marked article and others. Still quality marks help the illiterate consumers also. Rather than looking into the intricacies of the product, which they may not be able to do, they can very well look for the quality mark and depend upon it.

Considering these factors, compulsory standard marking may be extended to more and more articles and processes. Similarly, industrial-licensing procedures can be so modified to include terms that require new licensees to seek compulsory standard marking for their products and processes.

The consumers in general and the illiterate in particular must be educated about the virtues of a quality mark. Presently, the job of educating the public about the positive advantages of purchasing a quality-marked product is entrusted to the licensees of the mark. Licensees will certainly give adequate publicity to it since it provides them commercial benefits. That alone is not sufficient. In developed countries, where the consumers are educated and quality conscious, compulsory quality standards need only be prescribed in a limited sense. A highly competitive market will certainly push out producers of low quality products. But in developing countries, the scenario is entirely different. Consumers are vulnerable to the deceptive practices of producers. They are not quality conscious nor organized. What can be suggested is that the manufacturers be encouraged to publish the BIS emblem as a mark of quality through their advertisements. Apart from that, the public relations departments of various governments may be entrusted with the duty to give wide publicity through various medias, details about the goods that fulfill the required
Quality. Publication in the official gazette alone is not adequate. Wide publicity given to standard marking would encourage the producers to improve the quality of their products, since the consumers would prefer to buy quality goods. Governmental publicity must be oriented towards creating better consumer awareness about quality standards.

Presently, there is no incentive from the side of the governments to the manufacturers to go for quality marks voluntarily. The governments can encourage producers of quality products by adopting a policy of preference to quality marked goods in their purchases. The present system of inviting competitive tenders can be confined to producers who have to their credit the quality mark of BIS or any other equivalent institution. A governmental decision in this regard will certainly be a bold step towards encouragement and improvement of the quality standards of goods in the market.

The quality assurance services of the BIS should be more enlarged to ensure better availability of its services. The terms with which such services are made available to manufacturers may be made simple and attractive. Service charges shall not be allowed to stand as a deterrent for quality marking. Thrust of its activity

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174 The old common law doctrine of 'constructive notice' is not suited to the ideals of a welfare state. Publication in the official gazette is only a statutory compliance and may not reach the peoples. Mass medias like Radio, Television and Newspapers and publications from various government departments etc., can be made use of, to sub serve public good.

175 Governments are considered to be the biggest consumer of goods and services in the market. Governmental decision in this regard will certainly persuade the manufacturers and sellers to go for quality certification with a view to get themselves considered in government purchases.

176 The terms and conditions based on which the BIS extends its services now is based on terms agreed between by the BIS and the producer. See The Bureau of Indian Standards (Certification) Regulations, 1988.
shall not be mere economic criteria as it is often criticised. The services of the BIS shall be made available to all concerned at reasonable rates. Continued availability of the services is to be ensured until the producers attain the standards of quality prescribed by the Bureau.

Since quality mark would improve the sales and thereby the profits of the producer, abuse of the mark cannot be ruled out. It cannot be said that the BIS has an efficient system of administration to prevent unauthorised use of its certification mark. Similarly, the continued use of quality mark on goods when it does not comply with the quality requirements should also be checked. For this purpose, inspection of the quality marked goods in open market and at the premises of the manufacturers must be made a routine affair of the Bureau. Sample collection from open market from various parts of the country can be carried out with the assistance of local bodies, consumers and consumer organizations.

There are limitations in prosecuting offenders for improper use of quality mark. Prosecution at present can be initiated only upon a complaint made by or under the authority of the Government, the Bureau, any consumer or recognized association. Instead, all associations registered or otherwise working for the protection of civil rights can be permitted to launch prosecution. This will enable better compliance of the provisions by the traders.

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177 When the Government has made the ISI mark compulsory for bottled water, the response of the bottled water industry was that it would push the industry in to deep waters as the change over require heavy investment. Moreover, the fee for obtaining the ISI mark alone has been estimated to be Rs.1.34 lacks. See “Bottled Water Industry in Deep Waters” The Hindu, Cochin, April 3, 2001, p.3.

178 The Bureau of Indian Standards Act, 1986, s. 34.