Chapter 6

SUGGESTIONS AND RECOMMENDATIONS
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6.01 INTRODUCTION

This concluding chapter deals with the suggestions and recommendations on the issues that were raised earlier for the improvement of revival process of sick industries in the Eastern region in particular and in India in general. It also points out a few limitations of the study and sketches prospective areas concerning corporate sickness for future research.

6.02 SUGGESTIONS AND RECOMMENDATIONS

The main purpose of the study was to assess the revival process of sick corporate enterprises through the mechanism of the BIFR. It was observed that the BIFR had played a significant role in nursing many units back to normal health. However, there were criticisms regarding the functioning of the BIFR. In this section we present some suggestions and recommendations relevant for better administration of revival process and its monitoring by the BIFR and other concerned agencies. Some of the recommendations are of structural nature having implications at the highest policy making levels. While others are of qualitative nature, requiring changes in attitude at different levels. The cost implications of suggested changes will not be significant.

6.02.1 Structural Changes

1. One of the major problems with the BIFR process regarding revival is that, as pointed out in Chapter 3, it is time consuming. The main reason for such delay in disposal of cases of the BIFR is the quasi-judicial nature of the BIFR proceedings, which depends on consensus at almost all stages. Against this back-drop it is suggested that, the SICA, 1985 may provide a
definite time limit to dispose a case of sick unit by the BIFR. It would need prescription of time limit of disposal for different stages of proceeding with the BIFR. Simultaneously, there should be a deeming provision, which should stipulate that once the time limit passes without any scheme being sanctioned, then it would be deemed that the company is non-rehabitable. Introduction of such deeming provision is suggested on the background of the BIFR experience of bringing consensus in the process of sanctioning of the rehabilitation scheme, through the threat of winding up under section 20(4) of the SICA, 1985.

This suggestion has a major policy implication at the Government level. Such stipulation of time limit of disposal of cases would definitely quicken the process of framing a rehabilitation scheme. But it may invite problems also. It cannot be denied that the problems faced by each sick unit may be different from another because of diversity of size, number of banks and financial institutions involved and the marketing problems. Even then some sort of legislative sanction with provision for relaxation of the same in deserving cases by obtaining prior approval from the BIFR may significantly improve the scenario. Stipulation of a time limit may instill some kind of accountability among the agencies involved.

2. To achieve the objective of speedy disposal of cases, the BIFR should be given legal power to get necessary information including a provisional scheme from the Operating Agency involved in a time bound fashion.

3. The BIFR should be empowered with enough legal power to give directions to the concerned company, Central Government, Public Financial Institutions, Scheduled Banks etc. to take specified measures such as giving of relief, concessions or sacrifices, making of viability studies, preparations of a rehabilitation package etc. which may help in improving the performance of the company.
4. The BIFR should be given sufficient power to deal with potentially sick units. At present the BIFR cannot deal with potentially sick units as there is a provision of reporting only.

5. The BIFR should be free from interferences in dictating the cases of non-viable units. Providing an exit route for non-viable units should not be looked upon as something not desirable from the view point of social welfare. There is hardly any justification to use public funds for support of units which are irretrivably sick and cannot be revived.

However, it has also economic and social implications, particularly in the context of the unemployment situation and effects of the closure of a unit on the economic life of the area where it is located. To mitigate hardship arising from closure, Industry and Government should formulate and implement the scheme for training of surplus worker in new areas of technology and their absorption in other production lines. Alternatively, an Unemployment Insurance Scheme contributed by workers, the Government and Industry could be devised to take care of the interest of labour that would be rendered surplus due to closure of unviable sick units.

6. As detailed in Section 3:3:2 of Chapter 3, The BIFR can only deal with those industrial companies which are covered under First Schedule of Industries (Development and Regulation) Act, 1951. No attempt is made so far to systematically update and enlarge entries in the First Schedule. This has restricted the scope of the BIFR. The BIFR has had to refuse dealing with industrial units which from a common sense point of view should be so treated by it (for example, shipping companies are not dealt with by the BIFR). The BIFR should act as single agency to deal with the cases of all sick units irrespective of its nature and size. The scope of the BIFR may be enlarged to include the case of sick companies under the service sector also e.g., transport companies.
6.02.2. Qualitative Changes

1. The BIFR should use the provision of section 20(4) of the SICA, 1985 regarding winding up more frequently — not only as a threat to force consensus among various parties to facilitate sanctioning of scheme but also as a mechanism to expedite the sale of economically unviable firms. To execute more cases under section 20(4) the BIFR may enlist services of bonafide professional valuers and auction houses who will undertake the task on a commission basis. This will maximise sales revenue on asset disposal.

2. There should be a change in the orientation of the BIFR regarding use of power under section 20 of the SICA, 1985 on misfeasance proceedings. It is a powerful provision which enables the BIFR to direct the persons associated with promotion and management of a sick industrial company, to repay or restore the money or property. This power is seldom used in practice. Use of this power may deter the unscrupulous promoters to siphon off the funds of the sick companies.

3. The penal provisions for non-compliance of various provisions of the SICA, 1985 under sections 33 and 34 should be implemented by the BIFR. Under these sections, the BIFR can prevail an offender for deviating from any of its directives by unspecified open-ended fine. To signal its intent in preventing systematic defaults, the BIFR should occasionally implement these penalties and publicise them.

4. The BIFR has performed a definite role in the process of revival of sick units. Its major operational role should be that of being a first track facilitator and arbitrator. For this purpose, the BIFR may implement some organisational changes as stated below:

   i) BIFR hearing should be a forum for decision-making, not for seeking clarifications, explanations, or stating the Board's reservations about the preparation of a scheme.
ii) The BIFR should dictate an abridged version of its decision in the presence of all parties before formally closing or adjourning a hearing. This synopsised version should highlight the basic decisions and indicate the date when the full text will be sent to all parties.

iii) The BIFR should end each hearing with the bench members giving a specific date for the next hearing, if it is necessary. Not giving specific dates after hearings, and relying on bench officers has played a role in increasing the time delays.

5. Bank and financial institutions may give importance to management factor in framing their lending decisions. There should be insistence on proper quality of management, delegation of authority within the organisation and professionalism. The role of management in the process functioning of a commercial unit needs no emphasis.

6. Instead of single company approach there should be industrial group approach to address the problem of sickness. In other words, industrial groups should be asked to play a larger role in the rehabilitations of their sick industrial units.

7. Financial institutions and banks should be vested with power to physically seize assets of industrial units and sell them on the recommendation of the BIFR.

8. Banks, financial institutions and other agencies involved in monitoring of performance of a sick company before and after the implementation of rehabilitation scheme, should give importance to cash flow performance. Instead of computing cash profit (net profit plus depreciation), it should be insisted that the company concerned prepare a full fledged cash flow statement adopting the prevailing accounting standard in India (AS 3 of the ICAI on Cash Flow Statement as discussed in Section 4.04.4.2, Chapter 4). The Companies Act, 1956 may be changed to provide preparation and
disclosure of Cash Flow Statement as a part of Annual Report mandatory for all companies, instead of only requiring listed companies to present such statement under the stipulation of listing agreement with Stock Exchanges.

6.03 LIMITATIONS OF THE STUDY

The study is not free from certain limitations which are mentioned below:

1. The Study is confined only to Eastern Region of India because it is almost impossible to cover other three regions (viz., West, North & South covering the remaining 23 states in India) in such a short period of time and without adequate financial support for the study from any institution. But since the pattern of sickness is more or less the same, many of the conclusions drawn by us will also be applicable to other regions also.

2. The study takes only four sick companies as the size of sample. However, the sample size was 50% of the population and samples were drawn in such a manner so that it would give a representative character of the population in the Eastern region.

3. The study is mainly based on annual reports of sample companies for analysis of their performance. However, the quality of disclosure in an annual report is based upon prevailing legal requirements and the use of creative accounting by the company concerned cannot be ruled out. Even then, these financial data provide many significant indicators concerning management of corporate sickness.

4. The study covers five years of the post-sanction period instead of entire period of rehabilitation envisaged in the respective scheme of the sample companies. It is again conditioned by the time and resources constraint of present research work. However, it is hoped that inclusion of post-sanction period of more than five years will not change the trend of results.
In spite of the above limitations, our study represents a humble attempt as a pointer to the revival trend of sick units under the BIFR referred schemes in Eastern Region in particular and in India in general. It has some policy implications at the level of the Government, the BIFR and the operating agencies. The Study has therefore tremendous economic and social implications.

6.04 SUGGESTIONS FOR FURTHER RESEARCH

Here we focus some thrust areas for future research. Improvements and extensions of the present study cannot be ruled out. We, however, mention below a few relevant and promising areas for the purpose of further research.

1. Increasing the number of parameters

To analyse the financial performance of the sick sample companies before and after the sanction of rehabilitation scheme, we have used four parameters apart from cash flow performance. More parameters may be included in another study.

2. Increasing the number of hypothesis

We formed four hypotheses for the purpose of this study. The number can be increased to bring in other related aspects of sickness and revival which may be subject matter of a future study.

3. Study on small scale units

The study covers only large sick industrial units which are not in the category of Small Scale Industrial (SSI) units. Non-SSI large units are covered as large amount of funds of the banks and financial institutions are blocked in such units(Table 2.06, Chapter 2). A future study may focus on revival process of SSI units because of their economic and social implications.
4. **Study on merger cases**

The mergers and acquisitions is one of the dominant routes of industrial and corporate restructuring. The BIFR has power to approve schemes involving merger of a sick company with another healthy company under section 17(2) of the SICA, 1985. A future study may cover the merger cases to analyse the success or otherwise of merger route in bringing corporate turnaround.

5. **Study on relapse of symptoms of sickness**

It was observed by us that most of the units under the study had revived or under the threshold of recovery. But there may arise decline after attaining revival like relapse of disease in the case of a human body. A future study may throw light on relapse of symptom of sickness among the revived units.

6. **Predicting turnaround**

There are models to predict sickness but, as far as our knowledge goes, there is no model so far to predict turnaround or revival particularly suitable for developing countries. This may be an interesting subject matter of another study.

7. **Study for other region(s)**

The study is confined to the Eastern Region of India, where the incidence of industrial sickness was growing in earlier years. Now, the magnitude of sickness among industrial units is reported to be highest in the Southern region and the sickness is spreading fast in the Northern region (Section 2.06.3, Chapter 2). Further study may be conducted regarding incidence of sickness and process of revival in other regions also. Such a study may be done separately for each region or may be done for the entire country.
8. Similar studies on other developing countries

The study has focused on industrial sickness and the process of revival in Indian context. India is one of the leader-countries in South-Asian region. Similar study may also be conducted on the pattern of revival of sick industrial units in other developing countries, particularly in other SAARC countries viz., Bangladesh, Bhutan, the Maldives, Nepal, Pakistan and Sri Lanka.