APPENDIX I

QUESTIONNAIRE FOR SECRETARIES

(Please indicate your answer by Marking a Tick wherever needed and information not known can be written as “No idea”)

1. Name of the company : 

2. Year of Incorporation : 

3. Name of the Promoter/Group : 

4. Shareholding pattern (Percentage is sufficient)
   (i) Promoters : 
   (ii) Financial Institutions : 
   (iii) Individual shareholders : 

5. Names of the Subsidiaries Companies, if any : 

6. How many directors are in the Board
   (a) Number of Executive Directors : 
   (b) Number of Non-Executive Directors : 
   (c) Number of Nominee Directors : 
   (d) Number of Alternate Directors : 
   (e) Number of Labour Representatives : 
   (f) Number of Independent Directors : 

7. How many directors are related to the promoter group among?
   (a) Executive Directors : 
   (b) Non-Executive Directors :
8. How many days notice are usually given for the Board Meeting?

9. Is Agenda sent along with notice of the board meeting:
   (i) Most of the times   (ii) Less Frequently   (iii) Rarely

10. What is the normal duration of a Board Meeting?

11. Number of Board Meetings conducted during the year :

12. Average Attendance in a Board Meeting (in percentage) :

13. Purpose for the conduct of the Board Meeting
   (i) To satisfy the legal requirements
   (ii) To evaluate the performance of the company
   (iii) To frame the policy for the future

14. Nature of the Business Transacted by the Board
    (Give weightage in Percentage)
    (a) Discussion of financial results :
    (b) Strategy Planning :
    (c) Discussion about day to day operation :
    (d) Managerial succession :
    (e) Government relations :
    (f) Shareholders’ relations :
    (g) Labour relations :
    (h) Any other (Please specify) :
15. Of the above Business, in which business the directors are most interested? (Please rank as 1,2,3,.....)
a.  b.  c.  d.  e.  f.  g.  h.

16. In the absence of information to the Directors, will they demand necessary information?

17. What is the sitting fee and travelling allowance per meeting?

18. Are the non-executive directors entitled to any other monetary benefits other than sitting fees and TA?

   Yes   No

19. (a) If Yes, please state the nature of payments

20. Decisions are taken in the Board Meeting (Give weightage in Percentage)

   (i) Only after through deliberation
   (ii) Decision already taken prior to the Board Meeting and ratified in the Board Meeting

20. In the event of decision already taken outside the Board Meeting and subsequently got ratified in the Board Meeting, who is the real decision-maker?

   (i) Managing Director   (ii) Chairman   (iii) Outsiders

20(a) If, Outsider, the individual who takes the decision is:

   (i) Member of the Promoter family
   (ii) Not related the Promoter family
   (iii). Representative of the holding company

21. The nature of the minute book for the Board Meeting maintained by the Company is

   (i) Minutes of Resolution   (ii) Minutes of Narration   (iii) Both
22. Does Director insist on recording his dissent, if made, in the minutes of the Board Meeting?

23. If so, during the last 5 years, how many resolutions had been passed with the dissent note?

24. Decisions in the Board Meeting taken by?
   (i) CEO
   (ii) CEO + Key Executives
   (iii) Entire Board

25. Do you sense the domination of a single individual in the conduct of the Board Meeting?   Yes           No

26. In the absence of the Board Meeting, is there any practice of informing the Directors about the performance of the company?
   Yes           No

27. If so, the nature of information provided to Directors under such circumstances:
   (i) Accounts          (ii) Policy Proposals
   (iii) Statement about sales  (iv) Statement about production
   (v) Labour relations    (vi) Relation with Government Department
   (vii) Any other (Please specify)

28. Is the day-to-day performance of the company critically evaluated in the Board Meeting?   Yes           No

29. Normally who introduces a proposal in the Board Meeting?
   (i) Chairman          (ii) CEO     (iii) Executive Director
   (iv) Non-Executive Director     (v) Nominee Director

30. Proposals introduced by non-executive directors are seriously deliberated:
    Yes           No           Occasionally

31. Proposals introduced by nominee directors are seriously deliberated:
    Yes           No           Occasionally

32. Executive directors’ participation in the Board Meeting are:
    (i) Active          (ii) Very Active    (iii) Indifferent
33. Non-Executive directors’ participation in the Board Meeting are:
   (i) Active  (ii) Very Active  (iii) Indifferent

34. Nominee directors’ participation in the Board Meeting are:
   (i) Active  (ii) Very Active  (iii) Indifferent

35. Average percentage of attendance of Executive directors for the Board Meeting:

36. Average percentage of attendance of Non-Executive directors for the Board Meeting:

37. Average percentage of attendance of Nominee directors for the Board Meeting:

38. Average number of proposals introduced by the non-executive directors during the last 5 years:

39. Average Number of proposals introduced by the executive directors during the last 5 years:

40. Average Number of proposals introduced by the nominee directors during the last 5 years:

41. Details of Board Meeting conducted:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Board Meetings conducted</th>
<th>Percentage of average attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992-93</td>
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<td>1996-97</td>
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</table>

42. Which is the normal venue of the Board Meeting? If the venue is the company’s Registered Office, is a separate Hall available exclusively for the Board Meeting?
   Yes  No

43. Any Review of the Board’s performance conducted so far?
   Yes  No
43(a) If yes, what are the objectives set for reviewing the performance?

44. Is there any practice of setting of the objectives for the Board?

44(a) If yes, is there any mechanism for the assessment of the board room performance?

44(b) If yes for question number 44, please specify any two objectives set for the board.

45. During the preceding 5 years, how many AGMs were conducted?

45(a) What is the normal duration of AGM?

46. Normally how many shareholders attended each AGM during the period 92-97?

47. Number of proxies attending the Annual General Meeting:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Proxies</th>
<th>Number of shares represented by the proxies</th>
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<tbody>
<tr>
<td>1992-93</td>
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<td>1996-97</td>
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48. Will all the Financial Institutions holding shares in the company attend the AGM?
   Yes   No

49. If three any group/person demanding ransom for not disrupting the proceeding of meeting?
   Yes   No

50. Has the company bribed so far any group or person for buying peace in the General Body Meeting?
   Yes   No   No Comments
51. Had the CEO attended all the AGMs conducted during the last five years?

52. On an average how many Executive-directors attended the AGM in the last 5 years?

53. On an average how many Non-Executive directors attended the AGM in the last 5 years?

54. Had the nominee director attended all the AGMs?

55. Which of the following information is provided in the Annual Report for the year 1993-94?

(i) Debt-Equity Ratio
(ii) Explanation for extraordinary Income
(iii) Explanation for extraordinary Expenses
(iv) Capacity utilisation
(v) EPS
(vi) Market Price (High & Low)
(vii) Market Price Chart for 1 year or More
(viii) Cash Flow Statement
(ix) Explanation in sudden change in profitability
(x) Accounting Policies
(xi) Any other Information:
   (Please specify)

56. Has your company engaged the statutory auditor for any other job?
   Yes  No

56(a) If yes, please specify the nature of jobs for which the auditor had been engaged?

56(b) Had the remuneration for the above jobs been shown separately in the Annual Report?
   Yes  No
57(a) Auditor's independence gets impaired by rendering other consultancy services.

Strongly Agree  Agree  No Idea  Disagree  Strongly Disagree

57(b) By offering some consultancy services, the auditor will not hesitate in qualifying the audit even if some consultancy job is offered to the auditor.

Strongly Agree  Agree  No Idea  Disagree  Strongly Disagree

58. In the last 5 years, had the auditor made any qualification in the annual report?

59. Is there any change of the statutory auditor in the last 5 years?

60. Number of directors who retire by rotation every year?

61. How many proposals came from the shareholders (not related to the promoter group) to appoint a person as director in the place of retiring director in the last five years?

62. In the last five years any director who retired by rotation had not been re-appointed?

63. If yes, the reason for not getting re-appointment was:

(a) Sickness  (b) Other reasons

64. CEO is:

(a) The Promoter
(b) Belongs to the promoter family
(c) Unrelated to promoter

65. In the company, is there any post as General Manager immediately below the CEO, who is holding the overall responsibility?

65(a) If yes, is periodical meeting conducted by CEO with GM and other functional managers:

Yes  No
66. Have the Board formed any committee for the company Management?

Upto 1997? Yes No
After 1997? Yes No

66(a) If yes, state the names of the committees formed and the year in which they are formed.

67. Is there any Shareholders Association for your company shareholders?
Yes No

If yes,  
   i) Address of the Association.
   ii) How does the Shareholders' Association behave?

68. Have small investors formed a group for representation in the meeting:
Yes No

69. Do the shareholders visit the registered office to inspect statutory books & register?
Yes No

69(a) How many shareholders visit the registered office during a year for this purpose?

70. Average Number copies of Memorandum of Association and Articles of Association sold per year during the preceding 5 years:

71. Had the board involved in the succession planning exercise in the period prior to 1997?

72. Had the board involved in the succession planning exercise in the period after 1997?

73. Had the company paid any penalty for the improper maintenance of statutory and non-statutory books?
74. **Particulars of Directors:**

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Name</th>
<th>No. of Shares By them</th>
<th>Position</th>
<th>Sex</th>
<th>Age</th>
<th>Educational Qualification</th>
<th>Related To Promoter Group (Yes/No)</th>
<th>Directorship in Other Company</th>
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<td>MD/Exe/Non-Exe/Nominee/Alt.</td>
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75. The board meeting is only a ritual where it is considered as a get together.

- Strongly Agree
- Agree
- No Idea
- Disagree
- Strongly Disagree

76. The directors freely and actively participate in the proceedings of the board meeting.

- Strongly Agree
- Agree
- No Idea
- Disagree
- Strongly Disagree

77. The individual directors are dominated by the members of the incumbent management in the board meeting.

- Strongly Agree
- Agree
- No Idea
- Disagree
- Strongly Disagree

78. The directors are acting independently in the board meeting.

- Strongly Agree
- Agree
- No Idea
- Disagree
- Strongly Disagree
Globalisation and corporate governance in India

Dr. K. N. Gopal,*** V. Gopathy**

The Indian corporate sector score on the corporate governance is only mediocre. The parties to the corporate governance are (i) Shareholders, (ii) Board of Directors and (iii) Auditors. However, the scope of corporate governance for the sake of this article is restricted to shareholders instead of all the parties covered in the stakeholders. Globalisation has a radical impact upon the corporate governance. Indian promoters started realising their duty towards other stakeholders, especially shareholders. However, the failure of corporate governance has some problem changes, such as the post-globalisation shareholders, Board of Directors and Auditors and highlight the role played by globalisation on the behavioural changes of different constituents.

Shareholders

Individual Shareholders

There are two types of shareholders, viz., individual shareholders and institutional shareholders. The individual shareholders category can be subdivided further into two divisions, viz., (i) Pre-globalisation and (ii) post-globalisation investors on the basis of the entry of the shareholders. These shareholders who have entered the share market prior to 1980, are termed as pre-globalisation shareholders.

The investors of pre-globalisation shareholders were satisfied with the availability of dividend and performance of the company. At the most they expected a decent return a little higher than the bank deposit or periodical bonus shares. If at all, they attend the AGM is to get some snacks and free gifts and they were satisfied with the performance of the board (whatever it may be) and the dividend if at all any. If not they were not agitated much. Shareholders’ militancy is an unknown phenomenon at that time. Tolerant and passive attitude of the shareholdersness we agent the management to take the shareholders for granted. In fact, all of them at that time were decision takers high income group. However, the money invested in the share market constituted their own savings. Hence they did not expect any return, and hence they did not care for the performance of the companies.
In the view of an investor, the tax attitude of the shareholders enabled the management to act in whatever fashion they liked. They had never considered shareholders as a force to whom they are accountable for.

Institutional investors

Institutional shareholders are a powerful group, in all the countries. In fact, the state of corporate governance is comparatively better in developed countries because of the active role played by this species. In the pre-globalisation era, this sector is dominated more by government owned institutions. The government owned institutions acted as development institutions and not as investment institutions. In fact, most of the Finance Institutions (FI) in India are the nominees-directors. Such posts are only ornamental. It was an accepted code that the nominee directors are supposed to be satisfied with the information provided and they should not seek clarification and block any resolution. The Financial Institutions (FI) need not interfere in the regular day-to-day affairs. They could intervene in company affairs whenever they are prejudicial to the interest of the shareholders. Even on such occasions, the nominee directors were not permitted to act according to the tunes played by the North Block. The nexus between the politicians and the business people need not be trumpeted. Hence the institutional investor in India who are supposed to act proactively and decisively are, in reality, sympathetic passive spectators.

The Indian corporate panorama witnessed a passive FI where the situation demanded brisk intervention by way of policing the erring management. These remains lofty ideals in the paper only. In most of the times, the FI are inactive, reluctant and hesitant in correcting the activities of erring management because FI have to get a lot from the government, which they may not because of the political interference and connections of the management.

Recently, the RBI indicated the FI for the way in which they behaved in JCT LTD. JCT LTD, granted interest free loan worth of Rs 244 crore to its subsidiaries. The management deprives the shareholders and ventured to 46 crore in the form of interest on 244 crore. This is a day light robbery with the blessings of FIs. In such situations FIs are not held responsible for the corporate scenario. The quintessence of the situation is that FIs, through their representatives, are ineffective in demanding better norms of corporate governance.

The role of FI vis-a-vis corporate governance is not satisfactory compared to their counterparts in developed countries. In fact, there is a difference between the FI world and other Indian financial institutions. The role of the FI according to the charter of their creation is not an investment institution except UTI. Many of the institutions are set up and run for an altogether different purpose, viz., development agencies. Hence, an active role is not played by these institutions as investment institutions in the pre-globalisation era. Many of the decisions taken by the institutions may defy the logic, if they were judged from the angle of investment institutions. The investment role that they have played so far is only ancillary. Hence, they cannot be compared to their counterparts in Western countries and U.S.A.

Their counterparts in the Western countries and U.S are merely portfolio managers whose aim is to maximise the value of their accounts. Just as a portfolio accountant, Jul 2000
members. Hence whenever the management of a company, in which the institutional investors have invested, is in a propositional manner where a block of shareholders vote, the resolutions will immediately be passed. They will gain their holdings in the company and as a result the shareholders will come down. This type of reaction will check the management. They utilised the passive mechanism to express their unhappiness by selling the shares and the market also positively responded to the messages given by the FIs. The same strategy is followed by the FIs in India. The first incident in India is Arvind Mills Ltd. case.

Arvind Mills Ltd. (AML) decided to merge Arvind Intex Ltd. (formerly Negri Mills) and Arvind eternity in two shares of Arvind Mills for every nine shares of Arvind Intex. However, the FIs were not satisfied with the decision of merger. They have adversely reacted by selling the shares of AML. The price of the shares of AML nosedived from a high of Rs. 142.50 to Rs. 125.75 within two weeks, way back in August 1997. Now the shares are available at a throwaway price of around Rs. 35-40, nearly 75% fall compared to a fall of 30% in sensex.

The Bombay High Court while dismissing a petition against PSL, the high court has cited an earlier decision of the Supreme Court that FIs cannot be regarded as ordinary lenders as they are development institutions.

Board of Directors
In India, the corporate panorama is dominated more by family controlled businesses. In the pre-liberalisation era, the companies were formed with some nominal contribution by the promoters and a major contribution by FI, followed by individual shareholders. The promoters did not have majority. However, they have a feeling, in general, that the company belongs to them forever, by virtue of the legal nicety. The legal fact that the ownership is entrusted with the shareholders is only a legal fiction. According to the Companies Act, the management is vested with the elected shareholders in the Annual General Meeting. The decisions are to be taken in the Annual General Meeting on the basis of the majority of the votes polled in the meeting, i.e., more than 51% stake in many of the Indian companies in the pre-liberalisation era.

The individual shareholders are highly unorganised and hence ineffective in influencing the promoters. They can influence the promoters only if all of them attend the AGM, which is highly impossible. As the shareholders are widely scattered, only the shareholders who have the proximity to the registered office of the company will try to attend the Annual General Meeting. In that process, the votes polled by the promoter group will far exceed than the votes polled by the remaining shareholders who have attended the meeting. Hence the voting right of the promoter group, though less than 51%, usually they have the final say with reference to any proposals introduced in the Annual General Meeting.

However if the Institutional investors desire, they can check the promoters. As pointed out earlier, the government has decided to let the institutional investors to play only the role of the development institutions in the past. Hence Indian promoter ever thinks that he is managing the company, on behalf of half of the shareholders and he can be voted out by them at any time.

95% or more of Indian companies are unfortunately run like partnerships where the shareholders are considered only as a legal nuisance to be put up with.

Once the Gujarat High Court has passed strictures saying that the Managing Directors of Ambic Group of Industries have acted fraudulently, dishonestly and have deliberately kept the shareholders in the dark about their designs, it acted as if they are private owners of the public company. (Econom Times, Dec 12, 1981). The corporate history with pietheora of such episodes where the promoters acted like private owners of a public company is nothing but the result of unprofessional practices. One such area is the unreasonably high remuneration for the promoter and his kith and kin. Hence, in a number of companies the promoters fix the salary in an unimaginable number of crores to CEOs and full time directors. The mentality of the promoters is conditioned and enforced by the passive mood of the institutional investors.

The record of corporate governance in the professionally run companies too is not commendable. In the beginning, the opinion was that the professionally run companies will give too much importance to shareholders. During the ITC episode exploded this myth also. In a Business World's rating of India's most respected companies, a survey amongst the analysts, managers, ITC was rated no. one in 1994, sixth during 1995, 11th during 1997.

the management accountant.
A sample scam is given below by a so-called professionally managed company. The professionalism enabled the professional managers to conceive and carry out an ingenious plan, really brilliant, but unethical.

ITC set up a subsidiary in New York, ITC BUKARA, with a joint venture with some NRI doctors. These promises were made to the NRIs in the United States to get them to invest money in the ITC as a result of which they were promised a return of 25%. Unfortunately, joint venture resulted in losses. ITC decided to keep up the promises by paying the NRIs from its own pocket. EST Fibres, a supplier for ITC Bhutachalam paid the NRIs on behalf of ITC.

In turn, ITC deposits $4 million in a Swiss Bank. From there, money is paid to EST Fibres through a Conduit Company. Nothing was reported to the shareholders. ITC was a professionally managed company.

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countries.

Today, most Indian groups thrive on a maze of cross holdings, they are not strictly required to disclose. GAAP in Western countries on the other hand not only requires full disclosure but consolidation of accounts. Now the Companies Bill 1997 stipulates for consolidation.

Perhaps this lackadaisical attitude of this professionals compelled the law makers to forfeit the authority of Institute of Chartered Accountants of India to frame the accounting standards. Now they enjoy only recommending authority. The Finance Act of 1995 has forfeited the right of the Institute of Chartered Accountants of India to frame the Accounting Standards. Under section 145 of the Income Tax Act, the Central Government shall have the power to notify accounting standards to be followed by any class of assesse or in respect of any class of income. These accounting standards will be mandatory for the assesses while maintaining the books of accounts. The new Accounting Standards released by the Central Government u/s 145(1) of the Income Tax Act are applicable from April 1997.

**Post globalisation era**

**Shareholders**

- The profile of the Individual shareholders has been completely changed in the post-liberalisation era. The number of investors who entered the capital market in the post-liberalisation scenario exponentially increased, thanks to Harshad Mehta's (HM) active role.
- The new breed of investors who had tasted the blood (profits) flooded the market and the object of amassing wealth within a short span of time. The attitude of the shareholders who entered in the post liberalisation period is totally different from the conventional shareholders who dominated the pre-globalisation era. The HM force attracted greedy and new generation investors who entered the market with the object of making (bountiful) super profits. They expect good results. They demand good new issues. If the company fails to deliver the results, they have gone even to the extent of changing the entire Board of Directors.

Calcutta based H M poddar (market leader in shaving blades) bought the controlling stake (80%) of Kalliwol Industries from Rallies India during 1991. The company had been managed so badly. The company had been running most wanton for the benefit of provident fund. Under such situation the directors of the company abstained away from the AGM. The shareholders who attended the meeting have passed a resolution removing the entire board and authorising the Company Law Board to appoint different auditor and directors on the board. This is a sample case in the post globalisation era. Shareholders now want results and not explanations.

Now-a-days the board has to arrange for police protection not with the object of controlling the opponent group, but the militant shareholders. Tanfac Industries Ltd., conducted its 24th AGM with police protection. The fear of militant shareholders (though sometime reasonable) forced many companies to change the registered office, because according to the Companies Act, the AGM should be convened only at the city where the registered office is situated. A number of companies worry of shareholders activism are changing their registered offices. Tanfac Industries Ltd., is a joint venture of AV. This is the result of globalisation.

Though the Companies Act, 1956 empowered shareholders with a number of powers, the sympathetic shareholders seldom use the weapons in their arsenal in the pre-globalisation era. However, the new species of shareholders are a demanding kind. Though they are ready to use it, the powers are insufficient and negligent. Perhaps this might have modified the behaviour of the shareholders and resulted in militant behaviour.

However, the Individual shareholders, even as a group, cannot vastly improve the standard of corporate governance due to the methodology prescribed in the Companies Act for passing a resolution, i.e., the number of votes polled in a particular general meeting alone counts and not the total votes in that company. In fact the shareholders started realising their potential and exhibiting a new trend since the dawn of globalisation in demanding better corporate governance.

**Institutional investors**

With the dawn of globalisation, the quality as well as quantity of the institutional investors have altogether changed. Previously, many of the institutional investors are development institutions, owned by the Government, except UTI and LIC. All the agencies acted on the instruction of the government and played the role of a development agency. Now in the post globalisation era, a number of mutual funds appeared in the scene. Moreover, a number of mutual funds are started by foreign institutional investors. The Foreign Institutional Investors need not run for their AGMs and cannot run their show as described.
velopment institutions. They have to show results to their members in their home country, be a local or foreign based asset management company.

Hence with the arrival of Foreign Institutional Investors (FII), a new paradigm change in the approach of the Indian Institutional investors are started appearing. Indian FII have now started changing their role as development institutions.

Whenever the management action is prejudicial to the shareholders, the FII punished the erring companies by selling the shares of the company from their portfolios without any mercy or hesitation. Aravind Mills case cited above. This type of behaviour created a new awareness of the role an Institutional investor can play. Moreover, the political ideology also accepts the new role of the Institutional investors. in fact, the changing role of the Institutional investors can be more attributed to the change in the political scenario as well as the dawn of globalisation. The Non Performing Asset (NPA) criterion also played a vital part in compelling the institutional investors to change their role, as they cannot mobilise the funds necessary for their operation from the International Institutions like World Bank. The prerogative right so far engaged by the promoters, in appointing the CEO, is for the first time challenged by the FII. The FII have selected and appointed the CEO of Larsen and Toubro, where a powerful private promoter is in existence with around 7% holding in that company.

The UTI had taken the lead in this matter and formed a committee, where the institutional investors as well as the private promoter—the Reliance Industries Ltd, are represented, to select a successor to the retiring CEO of Larsen and Toubro Mr. SD. Kulkarni. The committee selected Mr. A. Ayyar and was appointed as CEO of L&T. Various institutions have framed codes for the NCenter Directors which encourage the Nominee Directors, who had been so far passive to actively participate in the Board Meeting, which was unheard of so far. This will vastly improve the shareholder corporate governance. The junior directors are now playing an active role. They are taking part in discussions leading to policy level decisions like expansion.

Board of Directors:

With the dawn of globalisation, some positive developments are taking place in the practice of the promoters—of family controlled businesses. Though the investors were of opinion that Tata companies would have been managed professionally, but now only the group has taken the steps to appoint for the first time, professional non-executive directors who will pay full attention in the affairs of the company.

Similarly, AV Birla group, has recently taken a decision to lower the age of retirement used to all management personnel. They are also preparing a succession plan for the entire group, which will be board of the Indian company sets up. Sometimes, the senior group has also reduced the age of retirement so that young blood can be infused into the board.

Many companies have started appointing Audit Committee, which is not mandatory, since the dawn of globalisation. The group even had gone to the extent of resigning the post of CEO and handing over the job to a professional. This had happened in the group and the group is planning a model with the support of SEBI. The Confederation of Indian Industries have framed a model Corporate Governance Code for Indian companies.

The liberalisation has also awakened the management. The environment prevailing forces the managements to change their practice. An active role of FI, statutory changes like rationalisation of takeover code, recent attempt in revising the corporate law, presence of a corporate regulator (SEBI), have compelled the promoters to accept the inevitable. However, they are responding only to the changing environment but they have not changed enough to justify that they have really changed. As and when a situation demands they respond to the least extent possible, so that the penal provision will not be attracted. One such example is their disclosure practice, during 1998. When SEBI directed the companies to publish their quarterly results along with the corresponding quarterly result of the previous year, many companies had not published the corresponding quarter in the previous year, as they SEBI provision is not mandatory for that quarter to publish the corresponding quarter in the previous year. They are trying to conceal as much information as possible, within the framework of law.

There are some positive changes that in the post-globlisation era.

One of the changes against business house is the lack of transparency. A long time ago, secret pay off to politicians was one. Funding political parties is not illegal. However, the information of the funding should be disclosed.

A positive development in this regard is the announcement of cre
The management accountant, July 2000

Cover Feature

Auditors

Though the auditing professionals are not prepared to let the MNC Audit firms, they have assimilated some of the practices of the MNC firms. In the pre-globalisation era, qualified reports were very rare to find even if it is needed for a sample study purpose. Now the qualified reports are started appearing regularly thanks to the change in the role perception of the auditors and their perception about their independence.

Globalisation and governance

Globalisation resulted in a number of far-reaching changes in the attitude and functioning of government also. The most important outcome of the globalisation in the government set up is the creation of Securities Exchange Board of India (SEBI). There was a long felt need of a regulator, an agency similar to the Securities Exchange Commission (SEC) of U.S.A., to regulate and control the share market operations. The then existing laws like Control of Capital Issues Act were incapable of regulating the market activities; as they were poorly equipped with powers. Finally, SEBI was formed in the year 1991. SEBI has created ripples in the market. Still a number of loopholes are there which are needed to be plugged. Yet it has taken a number of steps to improve corporate governance.

One such step is the publication of results. Prior to the establishment of SEBI, the companies had started publishing annual results. Then came the order of SEBI. The companies had started publishing half-yearly/quarterly results along with the previous half-yearly results. Recently in May 1998, SEBI ordered the companies to publish quarterly results along with the corresponding quarterly results in the last year and the results of the previous year. In the beginning, for the practical difficulties, the companies were allowed the option of not publishing the corresponding quarter of the previous year. However this directive has evoked rather a reluctant response from quite a few companies. Many companies had taken the option of not disclosing the corresponding previous quarterly results.

Taking advantage of this concession, companies such as Indiabai Fertilisers, Grasim and Indian Rayon have not published the information for previous quarters. The above companies are in the staple of AV Birla group. They have the famous daily parta system, which enables them to arrive at the profit earned for the whole company at the end of each day, even during the pre-computerisation era. They cannot claim exemption for the publication of previous quarter on the pre-text of non-availability of information. Crompton Greaves, which provided segmentwise figures in the Annual Report, failed to report the quarterly information for the previous year. Nahar group of companies also joined the list. Besides, Century Enka, IFCI, Orchid Chemicals, and GAIL are some companies which have not provided comparative figures for the first quarter of 1997-98. This shows that the corporate houses, irrespective of the group, want to reveal as little information as possible. At every level, companies try to play the hide and seek game. Their motto is to try as much as possible not to disclose crucial information.

Desirable corporate governance and practices should be encouraged legally whenever the practices are not satisfactory. In fact, the Bubbles Act is the ancestor of today’s Companies Act. The intention of the first Companies Act (i.e.) “BUBBLES ACT” is to protect the shareholders. During 16th century a number of companies were started. The promoters, even then, had collected money from the public with lot of promises. With the passage of the many companies disappeared from the scene. The companies appeared and disappeared as bubbles. The Government of England felt the need for regulating the unscrupulous promoters; hence the Bubbles Act. Similarly now the government felt the need for radical changes in the existing Companies Act, which P. V. Narasimha Rao Government started. Unfortunately it could not finish off the job. Even successive governments, though wholeheartedly pushed the matter, the fluid political situation prevented in passing a new Companies Act, which contains a number of provisions to encourage desirable corporate governance and practices.
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Pakistan at tethers. This again got manifested in the hijacking of the Indian Airlines Flight 814 by Pakistani mercenaries.

The doors for soft edged diplomacy remain in suspension. Mediation also between these two hostile neighbours is not always welcome.

In view of the failure of these channels of tension easing and rapprochment, I suggest the following measures to create an atmosphere of goodwill and peace:

1. Let the people of these places have a greater say in the peace and integration process.
2. Let us have more of cultural ambassadors than possibly the political ones.
3. Trade always cements relations between nation. If the bilateral trade flourishes between India and Pakistan, it is bound to improve bi-lateral relations even at the political front.
4. India and Pakistan should commit themselves towards disarmament and a nuclear free zone in South Asia.
5. Both should also abide by the 'No first use' doctrine.
6. Give greater thrust and actually participate in health, education, development and other like minded issues.

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**Corporate Governance in China**

**An Unfinished Agenda**

Dr. R. Neelamegam* and V. Gopathy**

Corporate Governance is the term used to describe the way in which companies are directed and controlled and encompasses issues such as the responsibilities of directors, and the relationships between shareholders, directors and auditors.¹

The corporate form of organisation is new to China, when compared to other East Asian countries. In a country like China, where the instruments of production are owned by the State, the shareholders as well as the Board of Directors are one and the same. Therefore, here the shareholders (State) supervise and control the Board of Directors (again State). However, the policymakers have accepted the concept of private sector at the political level and now they are in the process of privatizing the firms. They are taking steps to privatise them. Though the Chinese leadership has decided several years ago, to divest some 1,000 large, high-priority state owned enterprises, till date relatively few state-owned enterprises - perhaps 10 to 15 percent - have been divested to the private sector. That too most of the privatised units are small. Though there are certain problems with respect to the privatised units, many of the units are still under the State control.

Even in the process of de-linking the business from the Government, the State has to face a number of problems, hitherto unanticipated like asset stripping, de-capitalisation, wage manipulation and tax evasion, etc. One such problem is outlined below, where the shares are sold to private parties.

The concept of private property is new to the State of China. Hence, the concept of company also. They have their own version of the company law. According to China's company law an enterprise's "investor" must be identified in the corporate's Articles of Association. It is not a question of simply tracing funds, but rather, of assigning property rights. The competing claimants often cannot reach consensus on who the investor is to be. This dilemma is compounded in as much as

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most state-owned enterprises have large liabilities. Everybody wants the assets, but nobody wants the liabilities. With the unclear assignment of property rights, there is asymmetry in the allocation of rights and obligations for good and bad assets. In effect, while assets are privatised, liabilities are nationalised. This is the other side of the coin.

Although the introduction of individual shareholders through public listings has not resulted in a clear separation of ownership and management interests, ownership has been diversified to include institutional as well as individual investors. New governance structures have started emerging. Still, relatively few outsiders monitors, especially banks, exercise strong discipline on China’s state-owned enterprises. The four specialised banks are mainly agents of the State. Although they are attempting to transform themselves into commercial entities, they have a long way to go to establish their independence. Mergers (or threats of takeovers) can be effective disciplining devices against poor management. But most mergers of large state-owned enterprises are engineered by the state-owned enterprises and are not market driven.

Transparency is one of the pillars of Corporate Governance. Accounting is mechanism through which business can communicate to the outsiders. The accounting mechanism adopted here is totally new, compared to the practices adopted by the rest of the world. Most of the accounting mechanisms used by these enterprises are still aimed at counting (not accounting) rather than financial management. China’s accounting rules deviate from the international accounting standards in several respects: on the policy basis of the framework, the intended audience, and the definition of terms. International practice identifies investors and creditors as the primary users of accounting information. Hence the role of Auditors vis-a-vis Corporate Governance is very much limited in China. Recently issued Chinese accounting standards are more precise and comprehensive than the earlier general principles. If they are fully implemented, accounts prepared under Chinese standards will be more or less similar to the accounts prepared under the international standard. But even with the issuance of improved accounting standards, many of the managers will need to be trained to prepare such accounts. Perhaps most important, financial accounts of state-enterprises need to be independently audited and made public.

Countries who are the pioneers of the corporate form of organisation like UK and practising with it for more than 400 years are still facing the problem of Corporate Governance. Therefore, to judge the Corporate Governance prevailing in the State of China against the universal standard is not appropriate. Their problem with reference to Corporate Governance is unique. The mingling of the enterprises’ commercial and social functions and the fact that the State is both the ultimate owner and the regulator of state-owned enterprises make for unclear governance objectives. Moreover, effective corporate governance is difficult to exercise because few of the institutions responsible for managing state assets regularly receive timely, accurate and useful information about the financial performance of the firms they control.

Without reorienting governance mechanism towards a market system of checks and balances, many of China’s state-owned enterprises will continue to operate in corporate governance vacuum, with managers and other insiders exercising de facto control over the enterprises. The intended reformations to be successful, the reforms should follow a holistic approach whereby the overall institutional framework should be strengthened, especially with reference to property rights. This is the first and foremost task to successfully privatise the public enterprises. At the earliest, the state should offload its holdings and be a passive spectator leaving the show of running the enterprises to the professionals and introducing market based check and balance mechanism to run the enterprises. Hence Corporate Governance reforms in China is still in its infancy and much remains to be done. It will be years before the necessary reforms are fully effective.

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1. International Handbook of Corporate Governance.