

Indian Bureau of Mines & State Governments Relations

highlights

The Seventh Schedule of Constitution of India in Entry 54 of List I (Union List) provides for "Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest".

As per the Constitutional provisions, the State Governments, as the owners of the minerals, grant mineral concessions for exploration and mining of minerals.

6.1 INTRODUCTION

6.1.1 The relevant provisions of the Constitution of India under which the subject of mining and mineral development are allocated to the Central Government and the State Governments are given below:

“ Article 246: Subject-matter of laws made by Parliament and by the Legislatures of States—

1. Notwithstanding anything in Clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”)
2. Notwithstanding anything in Clause (3), Parliament, and, subject to Clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the “Concurrent List”)
3. Subject to Clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the “State List”)
4. Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the Union List”.

6.1.2 The Seventh Schedule of Constitution of India in Entry 54 of List I (Union List) provides for “Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by parliament by law to be expedient in the public interest”. Similarly, Entry 23 of List II (State List) provides for “Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union”.

6.1.3 As per the Constitutional provisions, the State Governments, as the owners of the minerals, grant mineral concessions for exploration and mining of minerals. However, in exercise of the powers vested by the Constitution of India, the

Parliament has enacted the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act). This legislation, i.e the MMDR Act, then guides the State Governments to exercise their powers over the minerals in the manner laid down in the MMDR Act. As a case in point, while the State Governments grant the mineral concession for exploration and mining for all minerals covered by the MMDR Act, prior approval of the Central Government is required only for grant of mineral concession for certain minerals specified in the First Schedule to the MMDR Act. It can be then stated that the legislative powers of the State stand denuded to that extent that the Parliament has legislated on a subject. This is not a case of concurrent subject in the Seventh Schedule to the Constitution of India, but a case of a subject matter in the List II of the Seventh Schedule of the Constitution being curtailed to the extent by the exercise of powers under List I of Seventh Schedule of the Constitution in public interest.

6.2 PRESENT AREAS OF COORDINATION BETWEEN STATE GOVERNMENTS AND IBM

The surge in developmental activities in the Mining Sector witnessed in the recent past that could be attributed to the growth in industrial activity in the country and upswing in the global demand for minerals has prompted the need for strengthening the regulatory regime and effecting appropriate controls so as to improve the efficacy of the regulatory system that is in place. The Committee acknowledging the diverse role played by IBM and that which it would have to play in future, took note of the revival of 86 posts that were effectuated recently. The Committee also did deliberate upon the parameters of work involved in the administration of regulatory process and made relevant recommendation for increase in appropriate number of posts in the various streams of IBM. However, considering the increase in number of mines and also the need to maintain quality in the work of regulation, the Committee is of the view that State Governments must be brought within the ambit and must be made to coordinate with the Bureau. All this would entail a higher level of coordination of the activities, with clear demarcation of the functions and responsibilities laid on the lines of which the State Governments shall render their part in the overall scheme as prescribed to them by Indian Bureau of Mines. Besides, in all those functions where joint operations would be essential, the State Government would have to extend fullest cooperation to IBM in the discharge of such functions.

At present the structure of coordination between the State Governments and IBM could be described as loosely woven & nondescript. Coordination activities are limited to correspondences, that too whenever occasion arises and are mostly rhetoric in nature. There are, however, a few formal occasions wherein Indian Bureau of Mines and State Governments do coordinate and interact, such as,





highlights

- 1. State Geological Programming Board —** The State Geological Programming Board Meetings, which are usually conducted once in a year, is one of such forum that facilitates discussion on various geological programmes. Major issues of IBM in respect of programmes concerning geological activities under RMGS which are scheduled to be carried out in the mining leasehold areas are taken up for discussion during the meeting. Summaries on approval of Mining Plans/ Schemes of Mining, number of inspection/studies carried out including ore dressing investigations/samples analysed, violations pointed out to the lessees consequent to the inspection/studies and its follow up/compliance etc. are also discussed and dealt with in these meetings. This level of coordination is then upscaled to the national level in the Central Geological Programming Board meetings held by the Central Government.
- 2. Mines Environment and Mineral Conservation (MEMC) Week Celebrations —** The MEMC week celebrations are annual events organised by IBM through its Regional Offices in coordination with the mines that fall under the jurisdiction of the respective Regional Office. The event though focussed on the environmental and conservation aspects, does provide the platform for discussion & interaction between State Government officials, RQPs, Industry experts and IBM officials. The Committee in its considered opinion observed that it is necessary to broaden the scope of such Weeks and utilise the occasion for information, education and communication for all stakeholders in the field of scientific mining, conservation of minerals, protection of environment, socio-economic issues and community development.

be administered the necessary fillip which will enable development of required competencies & capacity building and till such time that the development of the State level mineral administration system is not complete & functioning to the expected levels, IBM should continue playing the role as both first and second tier regulatory body.

In the developmental sphere, IBM would have to assist State Governments to ensure adherence to standards and parameters of systematic & scientific mining practices and must facilitate processes for leveraging technology and resources to meet this purpose. IBM must proffer assistance in devising and establishing mechanism for consultations, participation and dissemination of information to local communities in order to enable obtainment of Free Prior Informed Consent (FPIC) of all concerned stakeholders. The process of developmental activities would have to be progressively brought about in the State level mineral administration system through training, computerisation, automation, infrastructural development and access to & installation of latest equipment. Assistance to the State Governments would essentially be a dynamic process whereby upgrading of skill and technology would have to be taken up in a continuous manner and for a long haul.

Essentially this means both IBM and State Governments would be responsible for effective administration of the regulatory system and good governance practices in the Mining Sector. Therefore, to achieve these goals, a structured mechanism for coordination and interface between IBM and State Government machineries is both desirable and necessary.

6.4 EFFECTIVE ADMINISTRATIVE SYSTEMS FOR REGULATION IN MINING SECTOR

Presently regulatory functions in the Mineral Sector are being carried out by the Indian Bureau of Mines and State Governments. While the State Governments issue letter of intent for grant of mining lease, IBM approves the mining plan. IBM issues directives for scientific mining, conservation of minerals and protection of environment and also suspends mining operations in case of violations of rules. The State Governments on the other hand are empowered to terminate mining leases. It is, therefore, imperative that for an efficient management and administration of the regulatory system, close coordination between Central and State agencies is rather essential. As is envisaged, the scale of mining operations is set for massive expansion as the growth of manufacturing sector and demand for minerals to match the projected escalation in infrastructure development would be enormous. This makes it imperative to not only regulate but also regulate well. In view of the foreseeable circumstances, it is necessary that regulation of the Mining Sector is not only conducted with extreme caution and in an efficacious manner but insistence for adherence to high quality standards and improved inspection procedures too would have to be stringently followed. Therefore, involvement of efficient State Government Agencies

The vision statement for IBM, contemplates the two basic core functions — (i) Regulatory and (ii) Developmental functions. In the Regulatory sphere IBM's role is envisioned to be that of a National Technical Regulator and in the developmental sphere, IBM would have to assist State Governments to ensure adherence to standards and parameters of systematic & scientific mining practices.

IBM is empowered to issue directives for scientific mining, conservation of minerals and protection of environment and also suspends mining operations in case of violations of rules. The State Governments on the other hand are empowered to terminate mining leases.

6.3 ENVISAGED ROLE OF IBM AND STATE GOVERNMENTS

The Vision Statement for IBM, contemplates the activities of the Regulator and categorises them into two basic core functions viz. (i) Regulatory and (ii) Developmental functions. In the Regulatory sphere IBM's role is envisioned to be that of a National Technical Regulator and that which would operate as second tier in the framework of the regulatory system essentially at the national level proffering core expertise for designing systems, processes and guidelines for regulation of the Mining Sector. The State Governments on the other hand shall function as first tier in regulatory framework, where they would be expected to ensure implementation of the systems and processes for regulation of the Sector. However, the Committee is of the impression that for the State Governments to perform the role as first tier regulatory body effectively, qualitative improvement in the State level mineral administration system matching with that of IBM is absolutely essential. To achieve this purpose, the Committee recommends that State Directorate of Mines & Geology



highlights

in the overall scheme of regulations along with IBM is a mandatory requisite for establishing an effective Regulatory System. Some of the essential components that IBM and State Governments ought to put in place for establishing an effective mineral administration system are discussed hereunder:

6.4.1 Computerisation of Records

It would be necessary to digitise the mining lease plans including Khasra maps with geo-referencing so that the actual demarcation of mining lease boundary can be demarcated on the ground. This will also ensure monitoring of mining operations with modern technology like DGPS, Satellite imagery etc. The Committee is of the opinion that the modern day technology allows digitisation of records and online sharing of data on real-time basis. The Committee observed that several items of information currently reported to the Indian Bureau of Mines and State Governments are maintained in non-digitised formats, and this in itself makes sharing of data cumbersome. The Committee has further observed that in several mining countries in the world, it is mandatory for the prospectors and miners to report the data in a digitised format, which is well prescribed in the law or the guidelines. The Committee holds that such a mandatory prescription in the law or guidelines is also essential for the Mining Sector in the country. Further, in order to do so, the Committee is of the opinion that there should be digitised formats for reporting by the prospectors and miners, which is commonly agreeable to both the State Governments and Indian Bureau of Mines. This would not only ensure data compatibility across the country, but its integration for wide area networking applications is tremendous. Accordingly, the Committee recommends that Indian Bureau of Mines should hold consultations with the State Governments for evolving standard digitised reporting formats and ensure compliance through a web-enabled shared network monitored on real-time basis. For this purpose, Indian Bureau of Mines should immediately seek the assistance of expert consultants.

6.4.2 Development of Systems for Regulation

IBM needs to develop the micro level systems — process and guidelines in respect of various statutory tools for effective administration of the Mining Sector, such as, Mining Plans, Schemes of Mining, Inspections of Mines, follow-up of Inspections of Mines, Framework of Sustainable Development, Mine Closure Plans etc. These systems would have to be executed by both IBM and State Governments in various categories of mines.

Additionally, IBM as expected of it as a national technical regulator would have to develop the monitoring systems and checks, to ensure that the regulatory authority at the level of first tier (State Government) conducts its operation efficiently and unrestrainedly and periodically should oversee their working to ascertain the efficacy of the systems that are in place.

6.4.3 Guidelines for Industry and Stakeholders

Indian Bureau of Mines would have to don the role and function as the national technical regulator for Mining Sector in the country. In this capacity, Indian Bureau of Mines would have a defined and discernible role to play. All operational and functional guidelines for the State Governments and the Mining Industry which would facilitate standardisation of reporting and monitoring tools for the sector would have to be evolved and consummated into action. The Committee is of the view that Indian Bureau of Mines should prepare detailed guidelines on various compliance issues, such as, preparations of statutory documents like Mining Plans, Schemes of Mining, Mine Closure Plans etc.; filling up of various forms and notices; and working of the monitoring tools for field level officers to ensure achievement of the objectives i.e. promulgating and putting into practice systematic, scientific and sustainable mining operations. To this extent, the Committee is of the opinion that Indian Bureau of Mines would have to arrange training courses for experts in the respective fields who in turn could train the industry personnel, Recognised Qualified Persons, State Government officials and other stakeholders, on the guidelines formulated by IBM to run the course for the Mining & Mineral Industry as a whole. Developing guidelines will depend on the context and paradigm that the Mining & Mineral Industry would need to chart and therefore their evolution will be a continuous & dynamic process. Indian Bureau of Mines would therefore need to coordinate effectively at the Division or Headquarter level to spearhead this campaign with the State Governments.

6.4.4 Use of Modern Technology

Apart from conventional modes of regulation of Mining Sector, IBM and State Governments have to adopt the advanced modes of technologies for effective regulation of Mining Sector. Use of GPS/DGPS, Satellite imagery, GIS, videography etc. could be effectively put to use for regulation of the Mining Sector.

6.5 DEDICATED LINK BETWEEN IBM AND STATE GOVERNMENTS

The Committee is firm on the belief that for effective administration, all life cycle components of Mineral Development as indicated in **Figure 6.1** have to be closely monitored by both State Governments and IBM. For this purpose, the Committee recommends establishment of a dedicated link for access of database between IBM and State Governments like the Mining Tenement System through which all life cycle stages of any particular mineral concession could be accessed or retrieved. Both IBM and State Governments would have to maintain the registry component in respect of their domain of work. The following operational procedures would need effectuation for effective governance of the Mining Sector.

The Committee recommends that Indian Bureau of Mines should evolve standard digitised reporting formats and ensure compliance through a web-enabled shared network monitored on real-time basis.

The Committee recommends establishment of a dedicated link for access of database between IBM and State Governments like the Mining Tenement System through which all life cycle stages of any particular mineral concession could be accessed or retrieved.



highlights

- State Government**
- ◆ Exploration/ Prospecting by the State Government/GSI/Prospecting Licence holder
 - ◆ Notification of areas for grant of mining lease
 - ◆ Issue of letter of intent by the State Government
 - ◆ Execution of mining lease deed between State Government and lease holder
 - ◆ Submission of security amount by the leaseholder
 - ◆ Submission of Monthly/Annual returns of production and other statutory returns.
 - ◆ Issue of Royalty Clearance and Transport passes for movement of minerals.
 - ◆ Stoppage of issue of Royalty and Transport Pass on recommendations of IBM, if any
 - ◆ Termination of mineral concessions for non-compliance of lease agreement and/ or on the recommendations of IBM/Central Government, if any
 - ◆ Renewal of mining lease orders
 - ◆ Orders of determination of lease
 - ◆ Release of Security amount

Data Sharing between State Government and IBM

- Indian Bureau of Mines**
- ◆ Concurrence of IBM regarding grant of mining lease
 - ◆ Approval of Mining Plan and Mine Closure Plan by IBM/ State Government
 - ◆ Notice of commencement of mining operations
 - ◆ Submission of Monthly/Annual returns of production and other statutory returns.
 - ◆ Periodic inspections of mining operations and monitoring of Progressive Mine Closure Plan
 - ◆ Suspension of mining operations for major deviation from the Mining Plan, if any and non-compliance of rules
 - ◆ Revocation of suspension of mining operations after due compliance, if any
 - ◆ Comments of IBM on the renewal of mining lease
 - ◆ Issue of Certificate for compliance as per Mine Closure Plan

Figure 6.1 : Important Life Cycle Activities of Mining Lease to be Shared by IBM and State Government

6.5.1 Approval of Mining Plan

Presently the Mining Plans are processed and approved by IBM and State Governments. The decision of approval/rejection along with copy of mining plan is also conveyed by IBM to State Governments and vice versa. Apart from physical communication of the decision, the necessary entry in the database should also be made to ascertain the position. This not only enable communication of decision but also secure data for posterity which could be tracked, retrieved, updated and utilised for future reference & use.

6.5.2 Execution of Mineral Concessions

The entry of execution of mineral concessions like Reconnaissance Permit, Prospecting Licence and Mining Lease by the State Governments in the database would enable IBM to proceed further and initiate necessary follow-up actions in the matter. Prompt and efficacious mode adopted in updating the database will enable IBM to compile and maintain the inventory of RP/PL/ML.

6.5.3 Commencement of Reconnaissance/Prospecting/Mining Operations

The web portal of IBM should have a facility for online submission of notice with respect to commencement of reconnaissance/prospecting/mining operations. Submission of notice to IBM would ensure automatic communication of the same to the State Governments through a link between IBM and State Government database. This in turn enables State Governments to initiate prompt and earnest action like calculation of royalty, issue of transport pass etc.

6.5.4 Submission of Returns

IBM portal should also have the facility for online submission of Monthly/Annual returns of production by the mine operators under Rule 45 of Mineral Conservation & Development Rules 1988. Such online transmission of data will enable expeditious compilation of data receipts which will further lead to speedy release of updates on various minerals and their statistics.

6.5.5 Regulation of Mining Activities

The inspections carried out by IBM/State Governments could be recorded in the database and the outcome of such inspection thus could be shared by both agencies for effective regulation. Any follow-up action initiated consequent to the inspection of a mine would need to be recorded in the database for mutual reference purposes.

6.5.6 Renewal of Mining Leases

Provision to retrieve any information with regard to the current status, renewal date and expiry of mining leases should be made possible so that due actions for renewal could be initiated by IBM and State Governments as and when such request is received from mining leaseholders. The State Governments would have to make prompt entries in the database in retrieval of which the status of mining leases could come to be known and perused for action so deemed to be fit.

6.5.7 Mine Closure Plan

IBM would need to maintain and record in the database regarding status of approval of the Progressive Mine Closure Plan (PMCP) along with details of its implementation. Similarly, record in respect of Final Mine Closure Plan (FMCP) would also have to be maintained by IBM. This would enable State Governments to implement the relevant rules before considering determination of lease.

The web portal of IBM should have a facility for online submission of notice with respect to commencement of reconnaissance/prospecting/mining operations and the facility for online submission of Monthly/Annual returns of production by the mine operators.

IBM would need to maintain and record in the database regarding status of approval of the Progressive Mine Closure Plan (PMCP) along with details of its implementation.



highlights

6.6 COORDINATION AMONG IBM, CENTRAL AND STATE GOVERNMENTS

The Committee is of the opinion that for functioning as a National Regulator, Indian Bureau of Mines would need to establish a close rapport between State Government agencies and interface with all concerned authorities — those who could exert & bring about development in the Mining Industry. Mechanisms for mitigating & resolving issues at three levels — Regional (State) Office level, Headquarters and Central Government Level — would have to be conceptualised and brought forth for implementation. The schematic diagram that depicts the level of interactions between Indian Bureau of Mines, State Governments and Central Government is indicated in **Figure 6.2**.

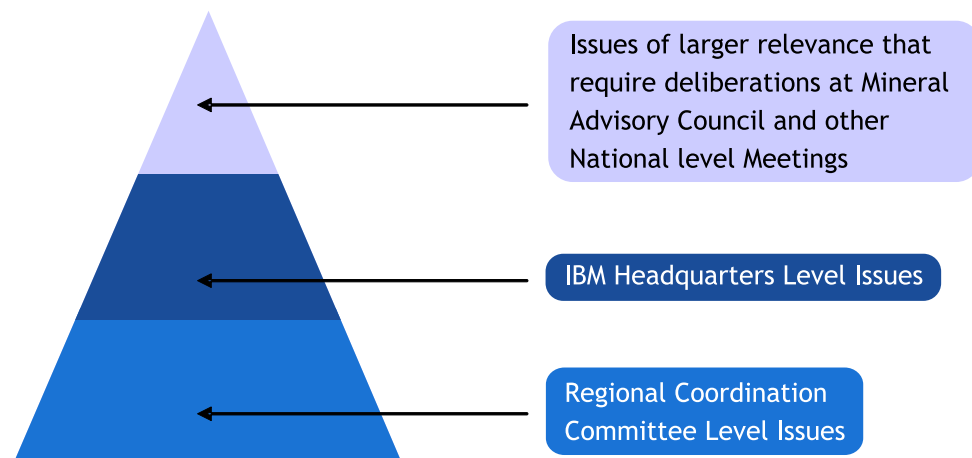


Figure 6.2 : Schematic Diagram for Coordination Activities Between Indian Bureau of Mines, State Governments and Central Government on Various Matters Pertaining to Technical Regulations

The Committee recommends that for each mineral-rich State, a “State Coordination Committee” be constituted in all Regional Offices of Indian Bureau of Mines — that which could interface with various regulatory authorities at state level and that which could comprise members from the Directorate of Mines & Geology, State Environment & Forest Department, State Pollution Control Boards, Revenue Department, Industry etc. Such Coordination Committees should meet at least once in every six months to discuss & resolve various issues, such as, compliance with Rules by mine owners, royalty, ore dressing needs, renewal of mining leases, new areas opened up for minerals development, status of submission of returns, consolidated list of RP/PL/ML etc. and all other issues that would have bearing on regulation and

development aspects of the Sector. The annual programme of IBM, DGMs and other concerned agencies that which are aimed at promoting & diversifying various facets of mineral development could also be deliberated in the meetings. State Coordination Committee meetings could facilitate all regulators to arrive at unified action beneficial to the Mining Sector. The Regional Controller of Mines of respective region shall prepare and submit the reports of the outcome of such meetings to the Headquarters and may recommend refinement in the system, process and guidelines and also suggest amendment in the policy, rules, as may be felt necessary.

The Committee is of the opinion that issues that are beyond the scope of the Regional levels have to be resolved at the Headquarters Level Meeting. Taking cue from the outcomes of the State Coordination Committee Meetings and from the report of the RCOM, issues that have wider implications or those left unresolved at the State/Regional levels could be brought for deliberations at the Headquarters level meeting. Such meetings would have to be convened once every year or whenever occasion demands and should involve the participation of the representatives/ members of State Coordination Committees.

On issues where intervention of the Central Government would be necessary, the Committee observed that such issues would necessarily have to be discussed and resolved at national level by the Central Government. Indian Bureau of Mines should undertake to consolidate the issues that could have national ramifications and present them at appropriate forum, such as, Mineral Advisory Council meeting or the Mining Ministers’ Conclaves for discussion, advice and resolution.

6.7 PRO-ACTIVE ROLE IN CURBING ILLEGAL MINING ACTIVITIES

One of the serious & plaguing concerns in the Mining Sector is the issue of illegal mining. The Committee while fully acknowledging the menace of illegal mining and the magnitude of the proportion that it has assumed, is of the view that such practices are having its toll not only by way of huge revenue loss to the State exchequer but also by the kind of havoc that it has caused to the environment as illegal mining activities have been going on unabatedly with scant regard to the environment or the principles of conservation of minerals. The Committee is of the firm opinion that there needs to be better interaction and information sharing between Indian Bureau of Mines and State Governments and evolution of discernible strategies that will prevail as an effective deterrent to such illegal mining activities, especially in respect of major minerals. The Committee would assert that both Indian Bureau of Mines and the State Governments ought to play a pro-active role in devising and employing covert & overt strategies to arrest the menace of illegal mining. Indian Bureau of Mines being at a vantage point could tap into the data available to it through mandatory reporting and random checks

The Committee recommends that for each mineral-rich State, a “State Coordination Committee” be constituted in all Regional Offices of Indian Bureau of Mines.

On issues where intervention of the Central Government would be necessary, Indian Bureau of Mines should present the issues at appropriate forum, such as, Mineral Advisory Council meeting or the Mining Ministers’ Conclaves for discussion, advice and resolution.



highlights

and identify such areas of violations or trigger points for illegal mining such as deviations in price trends of certain specific minerals, peculiar consumption pattern of specific minerals both domestic & export, production trend of specific minerals, increase in intensity & magnitude of mining operations of specific minerals, and to further fortify its evidences on illegal mining could rely on satellite imagery on Regional level mining and pursue after the complaints and other feedback on illegal mining activities received, so as to detect and enable to prosecute mining firms involved in such illegal practices. All internal analysis, findings and interpretations of Indian Bureau of Mines would have to be shared with the respective State Governments and effective permissible route would need to be adopted by the State Governments to curb illegal mining incidences.

The Committee recommends that IBM adopt the under-mentioned broader mechanism for collection, analysis and interpretation of information that would identify illegal mining and share the same with State Governments for prevention of illegal mining activities.

Level-I of Action

IBM should monitor the following key parameters:

- a) Price trends of specific minerals
- b) Consumption pattern of specific minerals both domestic and export.
- c) Production trend of specific minerals
- d) Any increase in intensity and magnitude of mining operations for specific minerals
- e) Explosive consumption pattern of specific minerals
- f) Satellite imagery on Regional Level Mining
- g) DGPS data on mining leases in the country
- h) Complaints and other feedback on illegal mining activities

Level-II of Action

Based on the observations and analysis of level-I of Action, IBM must identify

- a) Trigger points of specific minerals/ for a particular region
- b) Areas prone or potential areas for illegal mining
- c) Minerals prone to illegal mining
- d) Deviation in actual production from that approved in the mining plan.
- e) Deviation in mining areas identified through satellite imagery and DGPS survey
- f) Outcome of RMGS carried out in a region in areas prone to illegal mining for assessment of resources and reserves

Level-III of Action

Based on the analysis and interpretations of Levels I & II of Actions, IBM may issue

- a) Advisories to State Governments through district/state level 'Task Force' constituted for the purpose
- b) Issue directives to the State Governments
- c) Issue recommendations to State Governments to initiate field inspection and take punitive action
- d) Inform Central Government on action taken by the State Governments against mining operators for violations committed and that which were detected in IBM's analysis

Level-IV of Action

- a) IBM may associate in the field inspection, independently or jointly with State Government, depending on the situation; and
- b) Report matter to the Central Government on the action and directives passed and pursued by the State Governments.

IBM should monitor key parameters, such as, Price trends of specific minerals, Consumption pattern of specific minerals, Production trends and Intensity & magnitude of mining operations for specific minerals.

IBM should associate in the field inspection, independently or jointly with State Government, depending on the situation.

