ROAD

INDIA

Investment Promotion & Infrastructure Development Cell
Secretariat for Industrial Assistance
Department of Industrial Policy & Promotion
Ministry of Commerce & Industry
Government of India

CONTENTS

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PROFILE

(i) ROAD NETWORK

India has one of the largest road networks in the world (over 3.5 million km at present). For the purpose of management and administration, roads in India are divided into the following five categories:

- National Highways (NH)
- State Highways (SH)
- Major District Roads (MDR)
- Other District Roads (ODR)
- Village Roads (VR)

The National Highways are intended to facilitate medium and long distance inter-city passenger and freight traffic across the country. The State Highways are supposed to carry the traffic along major centres within the State. Other District Roads and Village Roads provide villages accessibility to meet their social needs as also the means to transport agriculture produce from village to nearby markets. Major District Roads provide the secondary function of linkage between main roads and rural roads. The Road network in the country is as under:

Table: 1

CATEGORIES	LENGTH (KMS)
Primary road system covering National Highways (NH)	65,569
Secondary road system covering State Highways (SH)	1,37,711
Other roads including Major District Roads(MDR) Other District Roads (ODR) & Village Roads(VR)	33,83,344

(ii) MOTOR VEHICLE POPULATION

While the motor vehicle population has grown from 0.3 million in 1951 to 59 million in 2004, marking a 180 fold increase, the road network has expanded from 0.4 million km to 3.5 million km, a 9 fold increase in terms of length during the same period. Upgrading of roads by way of widening of carriage-ways, improved surface quality, strengthening/reconstruction of old/weak bridges and culverts, etc. has been carried out.

(iii) TREND IN ROAD TRAFFIC

Freight transport by road has risen from 6 Billion Tonne Km (BTK) in 1951 to 1100 BTK in 2000 and passenger traffic has risen from 23 Billion Passenger Km (BPK) to 2875 BPK during the same period. The annual growth of road traffic is expected to be 10 to 11%. Current boom in the automobile sector may even increase the future growth rate of road traffic.

While the traffic has been growing at a fast pace, it has not been possible to provide matching investment in the road sector, due to the competing demands from other sectors, especially the social sectors. Many sections of the highways are in need of capacity augmentation, pavement strengthening, rehabilitation of bridges, improvement of riding quality, provision of traffic safety measures, etc. There are congested road sections passing through towns where bypasses are required. Many old bridges are in need of rehabilitation/replacement along with capacity augmentation.

NHs are the main arterial roads which run through the length and breadth of the country connecting ports, state capitals, industrial and tourist centers and neighbouring countries. NHs constitute less than 2 % of the total road network, but carry nearly 40% of the total road traffic. While their growth in quantitative terms has been rather gradual, from 22,255 km in 1951 to 65,569 km in December, 2004, qualitatively there has been overall improvement. The present level of budget for NHs is about US$ 1000 million per annum. However, the removal of existing traffic deficiencies is estimated to cost about US $ 33 billion.

(iv) DEVELOPMENT AND MANAGEMENT OF ROADS

Responsibility for the development and maintenance of National Highways rests with the Central Govt., while all other roads are the responsibility of the concerned State Govts. and the local bodies. Presently, NHs are being developed, maintained and managed under an agency system. The execution of works and day-to-day management of most NHs are looked after by the Public Works Department PWD and those in the border areas are developed and maintained by the Border Roads Organisation (BRO). The Ministry of Shipping, Road Transport and Highways, Government of India, has the overall responsibility including planning, budgeting and standardisation for National Highways. To give a boost to the development of National Highways, a National Highways

Authority of India (NHAI), under Ministry of Road Transport and Highways has been formed to implement important projects on NHs. At present NHAI is implementing NHDP.

(v) PROBLEMS

There has been no matching growth of the main road network comprising of National and State Highways as seen from the table given below:

Table: 2

GROWTH OF ROAD NETWORK

CATEGORY	1951 (in kms.)	Dec., 2004 (in kms.)	% Growth
National Highways	22,255	65,569	194%
State Highways	60,000	1,37,711	129%
Other Roads	3,18,000	33,83,344	963%
Total	4,00,255	35,86,624	796%

Much of the expansion of the road network has been through building rural roads to provide connectivity to rural areas, although 50% of villages are still to be connected with all -weather roads. The NHs have expanded only about 3 times and SHs have expanded by about 2.4 times in length from 1951 to December, 2001.

The main roads have not kept pace with traffic in terms of quality also. Out of the total length of National Highways only 4 percent of their length is four-lane, 58.1% two-lane, and 38% single lane. The deficiencies in the road network is causing huge economic losses due to slow transportation and also contributing to high rate of road accidents.

INVESTMENT NEEDS

Based on growth trends, projections for future requirements of roads have been made by various agencies: the Planning Commission, Ministry of Road Transport and Highways, Indian Road Congress(IRC). With an anticipated growth in GDP at 7% per annum, annual growth of road traffic is expected to be 10 to 11%.

(i) DEVELOPMENT NEEDS

Based on the estimates made by Ministry of Road Transport and Highways and other experts from time to time, a broad assessment has been for the needs for the development and expansion of the National Highways. The details are given in Table 3:

Table: 3

ESTIMATED COST OF REMOVING DEFICIENCIES ON NATIONAL HIGHWAYS (AT 1999 PRICES)

S.No.	Category	Length to be covered	Amount required (Rs. billion)
1.	Widening from single lane to two lanes	22527 km.	281.50
2.	Improvement of two lane roads :		
	a) Strengthening weak pavement	19250 km.	144.50
	b) Widening to 4-lanes/6-lanes	22000 km.	880.00
	c) Construction of Expressways	2000km.	160.00
3.	Construction of bypasses	60 Nos.	90.00
4.	Construction of missing links, improvement of low grade section to single lane NH standards, Road safety, drainage and other misc. works.	Lump Sum	80.00
5.	Construction of bridges/rehabilitation	210+425 nos.	7.45
	Total:		**1643.50 say 1650.00**

(ii) MAINTENANCE OF ROADS

The vast network of roads built over the years with huge investments needs proper maintenance. However, the inadequate flow of funds, has not permitted proper maintenance of the existing road network, as also the weak planning, scheduling and monitoring of maintenance operations. Table below summarises the broad assessment of funds for maintenance of existing assets :

Table: 4

FUNDS REQUIREMENT FOR ANNUAL MAINTENANCE OF MAIN ROADS (Rs. Billion: Current Prices)

Category of Road	Length in Kms.	Estimated Cost
National Highways	65,569	22
State Highways	1,37,711	31

(iii) SCOPE OF PRIVATE FINANCING

It has been broadly assessed that only 15-20% of the requirement of highway sector can be met from the private sector. However, investments of more than Rs. 5797 crore from the private sector on projects on National Highways have already been made.

STATUTES AND INSTITUTIONAL STRUCTURE

The functions relating to development, maintenance and management of National Highways are carried out by the Central Govt. under the provisions of National Highways Act, 1956. The Act has been amended in June, 1995 to permit private sector participation.

The National Highways Act, 1956 empowers the Central Govt. to enter into agreement with any person for development and maintenance of National Highways. The person may be an individual, partnership firm, company, joint venture, consortium or any other form of legal entity, Indian or foreign, capable of financing from own resources or funds raised from financial institutions, banks, open market etc., designing and building the project and operating and maintaining it, collecting fee from users during an agreed period which together with construction period is termed as concession period. Upon expiry of the concession period, the right of the person to collect the fee and his obligation to operate and maintain the project will cease and the facility will stand transferred to the Central Govt.

All policy matters relating to National Highways are decided by the Ministry of Shipping, Road Transport and Highways (MORT&H).

NHAI was established under the National Highways Authority of India Act, 1988 but was operationalised in February 1995. The Authority is an Autonomous Body with executive responsibility for the development, maintenance and operation of those National Highways and associated facilities vested in it by the Ministry of Road Transport and Highways. It is intended to take over the management of the entire National Highways on agency basis in a phased manner. The Authority has been entrusted with the execution of the highway projects under ADB-III as well as Japan Bank of International Cooperation (JBIC). In addition, NHAI will also be implementing other externally-aided projects like World Bank-III and maintenance thereof. NHAI will also be implementing other externally-aided projects under World Bank-III and maintenance thereof. NHAI will also be responsible for implementation of the policy of privatisation in highway sector.

A Task Force headed by Deputy Chairman, Planning Commission was constituted on October 30, 1998 with the aim of attracting investments to specific infrastructure projects of national and regional importance and ensuring timely completion. The Task Force mandated NHAI to complete 4 laning/6 laning of National Highways falling under NHDP. This comprises upgradation of 14,279 km. length of National Highway linking the metropolitan cities of Delhi-Kolkata-Chennai-Mumbai-Delhi, the Golden Quadrilateral (GQ), involving 5876 km of road and costing Rs. 25,000 crores. The North-South and East-West corridors (corridors) from Srinagar (J&K) to Kanyakumari and Silchar to Porbandar, involving a distance of 7,300 km and costing Rs.30,000 crores (at 2001 prices).

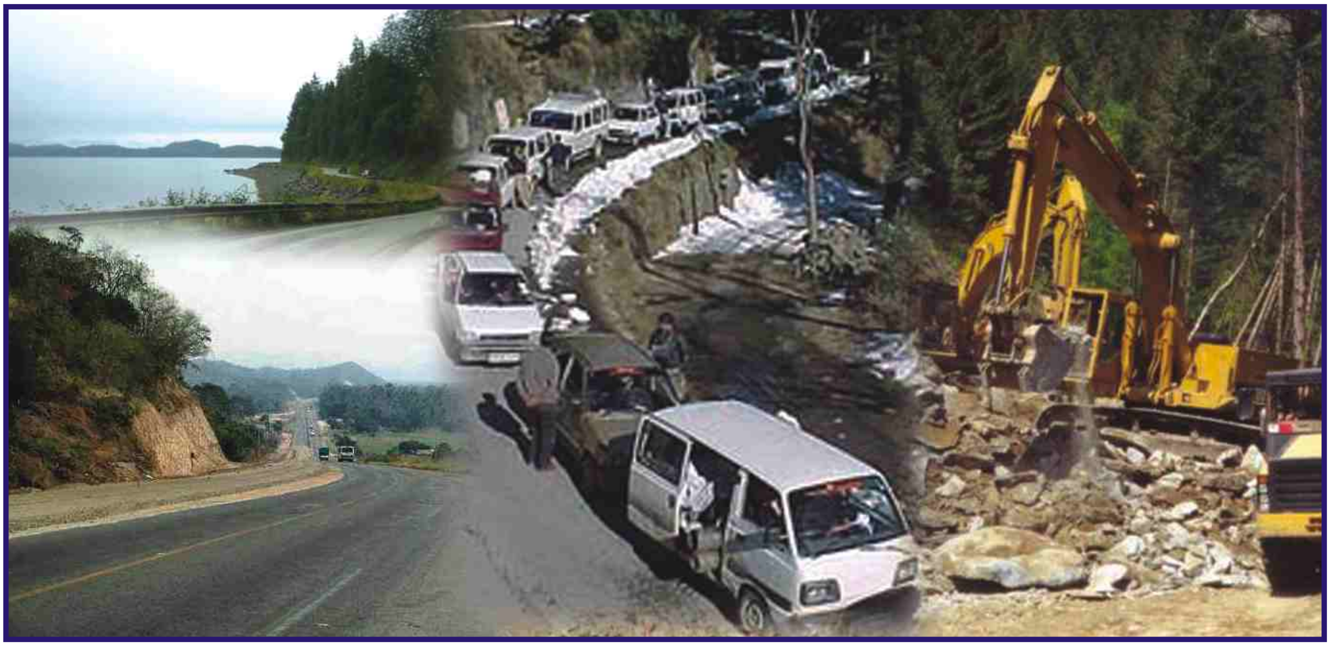
Apart from the Chairman, the Authority has four full time Members namely Member(Technical), Member (Finance & Administration), Member (Private Investment) and Member (Information Technology).

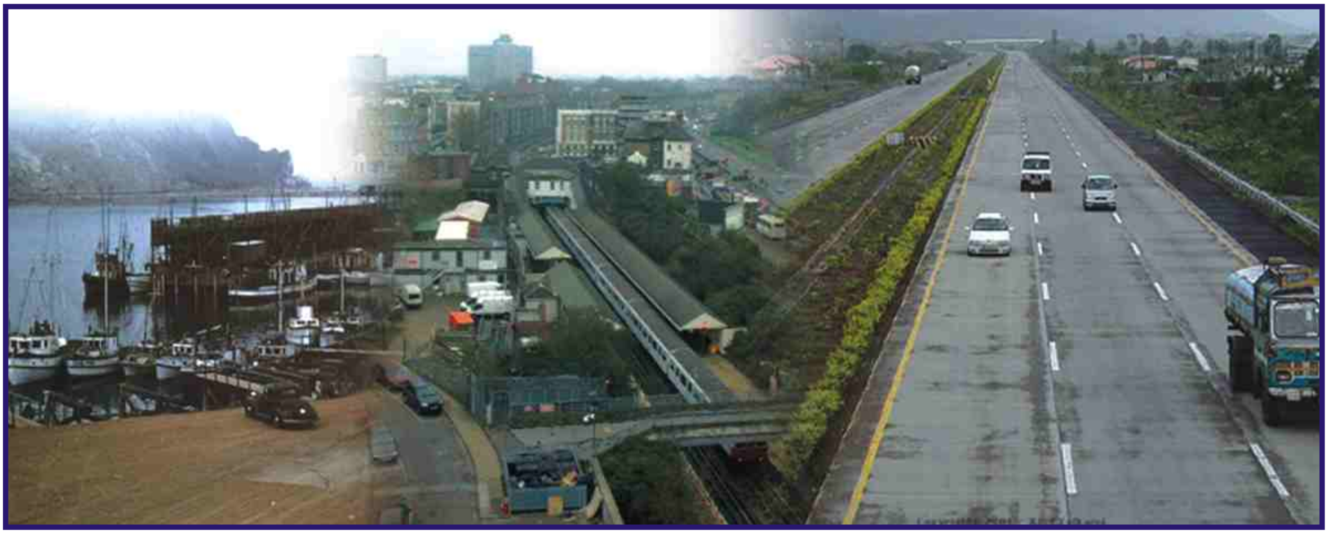
NATIONAL HIGHWAYS PROPOSED FOR FOUR/SIX LANING ON NHDP

Table: 5

(All length in km)

Sl. No.	State	Golden Quadrilateral	Corridors			NHDP Total
			North-South	East-West	Total	
1	Andhra Pradesh	1,016	753	-	753	1,769
2	Assam	-	-	732	732	732
3	Bihar	206	-	513	513	719
4	Delhi	25	21	-	21	46
5	Gujarat	485	-	634	634	1,119
6	Haryana	152	180	-	180	332
7	Himachal Pradesh	-	14	-	14	14
8	Jammu & Kashmir	-	405	-	405	405
9	Jharkhand	192	-	-	-	192
10	Karnataka	623	125	-	125	748
11	Kerala	-	160	-	160	160
12	Madhya Pradesh	-	524	110	634	634
13	Maharashtra	489	232	-	232	721
14	Orissa	444	-	-	-	444
15	Punjab	-	311	-	311	311
16	Rajasthan	722	32	526	558	1,280
17	Tamil Nadu	341	851	-	851	1,192
18	Uttar Pradesh	753	268	548	816	1,569
19	West Bengal	398	-	366	366	764
	Total					





SCOPE OF PRIVATE PARTICIPATION AND GOVERNMENT SUPPORT

Private Sector participation in the highway sector is under the Build, Operate and Transfer (BOT) concept. Private parties, which invest in identified highway projects, are permitted to recover their investment by way of collection of tolls for specified periods, termed as concession period. At the end of concession period, the facilities will revert to the Govt.

The users are already accustomed to pay toll for the use of certain bridges on National Highways for the last many years. The parties intending to participate in BOT Scheme projects are expected to fully satisfy themselves about the financial viability of the project based on accurate traffic forecasts. Design and specifications for construction and land operation of the facility are to be in accordance with the standards laid down by the Govt. Construction of bypasses, bridges and widening of high density corridors of NHs have been identified for four laning through the BOT route. The Government in the year 1997 passed the necessary legislation on collection of toll. The capping rates for 4 lanning projects on National Highways have been provided in the National Highways (Rate of Fee) Rules, 1997.

Besides direct tolling, other measures like "shadow-tolling" and annuity payments are also being explored.

GOVERNMENT SUPPORT

The Government will carry out all preparatory works for the projects identified for private investment and meet the cost of following items:

1. Detailed Feasibility Study.
2. Land for Right-of-way and enroute facilities.
3. Clearance of the Right-of-way land: Relocation of utility services, cutting of trees, resettlement and rehabilitation of the affected establishments.
4. Environment Clearances.
5. In case of ROB's clearance from Railways to allow private enterprise to build the ROB under Railways supervision and fixing of GAD and charges payable to Railways.
6. Where design is left to the enterprise, giving details of standards and bore holes logs at bridge sites etc.

Depending upon the financial viability of a project, the Government may recoup its investment on the above items from the project.

Land required for construction and operation of the facilities will be provided by the Govt. free from encumbrances.

(ii) AREAS OF PRIVATE INVESTMENT

To motivate the inflow of resources for the development, maintenance and management of NHs and to improve their efficiency, productivity and quality of service, Government has taken several new policy initiatives.

The categories of projects, which can be taken up on BOT basis are as under :

CATEGORY OF PROJECT
(EXISTING NETWORK)
Widening from 2 lanes to 4 lanes
Major Bridges
Railway Over Bridges
Elevated Section through Urban Areas
Interchanges
Bypasses
(NEW NETWORK)
Expressways

SPECIFIC GUIDELINES FOR PRIVATE SECTOR INVESTMENT IN THE NATIONAL HIGHWAY PROJECTS

(i) IDENTIFICATION OF PROJECTS FOR PRIVATE INVESTMENT

The following principles will generally be observed in identification of NH projects for private investment:

1. Project is one of the approved projects of Ministry of Road Transport and Highways.
2. Project is capable of yielding adequate Economic Internal Rate of Return and EIRR.

(ii) PROJECT COMPONENTS

1. Highway construction, as per the scope which may be finalised by the Implementation Agency based on the detailed feasibility study.
2. Highway related facilities, enroute, as may be identified by Implementation Agency in the bidding documents:
   • Restaurants • Motels • Rest/Parking Areas
   Land for the above facilities will be acquired by the Implementation Agency.
3. In addition, the enterprise may also develop Highway Related Facilities at entry/exit points, at his option. Cost of land for such facilities shall be paid for by the enterprise, but Implementation Agency (IA) may assist in the acquisition of the land.
   - Transport Nagars
   - Loading/unloading terminals for cargo
   - Ware houses/godowns
   - Vehicle repair facilities
   - Shops for vehicle components
   - Restaurants
   - Hotels/Motels
   - Insurance and Medical facilities

   The layout of such establishments shall be finalised by the enterprise with the approval of the IA. The enterprise may be required to obtain necessary clearances from appropriate authorities.
4. Advertisements/Hoardings: The enterprise may be permitted to allow displaying of advertisements/ hoardings within the right-of-way and outside, in

accordance with the extant policy of the Government on the subject matter.

5. Commercial/Residential Complexes: In case the enterprise develops commercial/residential complexes in the project area after obtaining such clearances from the State and local development agencies as may be required, the IA may allow the enterprise to connect such establishments with the highway at agreed locations. The land for such development will be arranged by the enterprise itself.

(iii) LAND

The land meant for highway construction and the land meant for en route highway related facilities, will be given to the enterprise on lease for the concession period. Any expenditure on stamp duty etc. incurred on documentation for lease of the land will be borne by the enterprise. The lease for the land will be suitably extended in the event the concession period is extended for any reason. The enterprise is not allowed to sub-lease the land to any one for the period(s) limited to the concession period.

(iv) CONCESSION PERIOD

The concession period comprises of (i) the construction period which will be project specific and (ii) the period during which the enterprise is permitted to levy fee and is liable for maintaining the facility which will be determined on competitive bidding basis and may be up to 30 years. The concession period may be extended suitably, to cover any default of the Government in fulfilling its obligations. In the event the enterprise completes construction of the project before expiry of the period specified in (i), he will be entitled to collect user fee from traffic during the balance period available from the construction period, at the rate applicable

for the year of opening the road for traffic. In case the enterprise delays construction of the project beyond the period specified for construction, his fee collection period will get reduced correspondingly.

(v) IMPLEMENTATION STEPS

1. Completion of the preparatory works for the identified projects

2. Finalisation of Bidding Documents

3. Invitation of Bids
4. Pre bid conference
5. Evaluation of Bids
6. Award of concession
7. Signing of the Agreement

(vi) FEASIBILITY STUDIES

The Implementation Agency, in the first instance, will have a feasibility study carried out for the project identified for private investment. The feasibility study will establish the scope of the project, lay down standards and specification for its construction, finalise alignment and determine requirement of land, prepare plan for the re-location/shifting of utility services, cutting of trees, prepare social assessment of the project, identify Rehabilitation and Resettlement issues, carry out traffic forecast, identify the requirement of highway related facilities including their locations, carry out economic and financial viability of the project after assessing the benefits to the users and determining the user fee structures, for different funding options, and various related aspects. The feasibility study will also address to the risks of project appropriately. The Implementation Agency will make available the feasibility study to any interested bidder and may charge appropriate fee for the same.

(vii) BIDDING DOCUMENTS

The Bidding Documents will inter-alia include the terms and conditions of the agreement rights and responsibilities of the parties, remedies, scope of project and its description, standards and specifications, implementation schedule, operation and maintenance standards, issues relating to transfer of the project after the expiry of concession period or after expiry of the extended period, as the case may be. The consequences of fore closure of the project by the enterprise, or termination of the agreement by Government will be brought out in the bidding documents. The preparation of bidding documents shall address to various risks of the project appropriately, by properly allocating them between the parties. The documents shall be got prepared by the Implementing Agency and given to the interested bidders atleast one month before the closing date for submission of the bids, after due approval of the documents by the Government

(viii) BID SECURITY

Bids for the projects will be accompanied by a bid security bond which will be of an amount equal to 1% of the project cost as determined in the feasibility study.

(ix) PERFORMANCE SECURITY

The successful enterprise will be required to furnish a performance security bond of an amount equal to 3% of the cost of project as indicated in the feasibility study.

(x) INVITATION OF BIDS

The projects will be classified into the following categories :

Category-I Railway Over Bridge, Bypasses, Bridges and Interchanges each project costing less than Rs. 1,000 million, as per the feasibility study.

Category-II All projects relating to 4 laning and Expressways and the projects relating to Bypasses and Bridges each, costing more than Rs 1,000 million, as per the feasibility study.

For the category-I projects costing up to Rs.1000 million, bids will be received in two covers; one cover containing the technical proposal and the other containing the financial bid. The financial bid of only those bidders, which

meet the minimum technical standards will be considered for further evaluation. The evaluation criteria will be stated clearly in the Bid document for evaluation of the financial bids.

For the category-II projects as well as Category I projects costing above Rs.1000 million, two stage bidding process will be followed. In the first stage, proposals will be invited from bidders for their short-listing. Financial bids, in the second stage, will be invited only from the short-listed bidders. While inviting proposals for short-listed bidders, the criteria for short-listing and evaluation of the financial bids could be made known and the bidding documents would clearly stipulate the criteria.

The technical proposals for category-I projects, or the proposals for short-listing of the bidders for category-II projects will be evaluated keeping in view, inter-alia;

a. Experience of the enterprise

b. Experience of the contractors/consultants

c. Capacity of the enterprise to raise funds from the market

d. Financial strength of the enterprise

e. Quality and adequacy of the organisational and institutional arrangements proposed for implementation.

The technical proposal in respect of category-I projects and the proposals for short-listing of the bidders for the category-II projects, will be evaluated and finalised by a Committee constituted by the Implementing Agency.

The period of validity of the bid will be as laid down in the bidding documents for specific projects.

The advertisements for inviting the bids for the category-I projects will be issued in at least two national English daily newspapers, two national Hindi Newspapers, and at least one Newspaper in regional language.

For category-II projects, the advertisements will be issued in the newspapers applicable for category-I projects. In addition, the advertisements will also be issued abroad. The bids will be invited from domestic as well as international bidders.

(xi) EVALUATION OF FINANCIAL BIDS

Evaluation of financial bids will be carried out on the principle of least cost to the user.

(xii) AWARD OF THE CONCESSION

After evaluation of bids and approval of the award by the Government, a letter of acceptance of the bid will be issued by the Implementing Agency in favour of the successful bidder. The letter of acceptance will, inter-alia, specify the formalities to be completed by the successful bidder for signing of the agreement. If the successful bidder is required to furnish performance security, or any other guarantee etc., prior to the signing of the concession agreement, it shall be so stated in the letter of acceptance.

(xiii) MODEL CONCESSION AGREEMENTS

For ease of Investors, Model Concession Agreements (MCA) for large projects (costing above Rs.1000 million) and for small projects (costing upto Rs.1000 million) have been evolved. These publications are available from Indian Roads Congress (IRC), Jamnagar House, New Delhi.

The salient features of the Model Concession

Agreements are as below :

- Roles and responsibilities of various players in BOT projects namely the Government and the entrepreneur/promoters have been clearly delineated.
- Commencement of concession period after signing the agreement/issuance of letter of acceptance has been firmed up to provide mobilisation time to the promoters.
- Force majeure events and consequences thereof have been comprehensively covered by allocating the risks appropriately.
- Change in scope of work after the agreement has been signed, has been capped at 5% to safeguard promoters from uncertainties and the procedures for payments in this respect have also been covered.
- Promoters risk against creation of competing facilities have been adequately addressed.
- To protect the promoters against inflationary changes, toll fee revision has been linked to changes in Wholesale Price Index.
- In the event of promoters default the lenders interest has been covered by a provision for substitution of the promoters by the lenders, with the approval of Government.

(xiv) SIGNING OF AGREEMENT

The draft of the concession agreement would have been provided to the bidders prior to the bidding, which shall, inter-alia include the form of agreement. The concession agreement shall be signed by the successful bidder and the Implementing Agency.

(xv) EXCEPTIONAL CIRCUMSTANCES AND FORCE MAJEURE

The circumstances such as wars, invasion, arm conflict, or act of a foreign enemy, riot, insurrections, act of terrorism, sabotage, criminal, damage or threat of such act, nuclear explosion, radioactive or chemical contamination, any effect of the natural elements, including geological conditions which it was not possible to foresee and to resist, strike of exceptional importance etc. are beyond the control of either party to the agreement and may cause genuine failure or delay in complying with any obligations under agreement between the parties. In such events, the Government may suitably extend the concession period sufficiently to compensate the enterprise to offset its losses caused due to any exceptional

circumstances. The enterprise may be required to take out an insurance covering its assets against the risk of damage and providing protection against loss of revenue as a result of occurrence of any exceptional circumstances.

(xvi) DELAY IN PROJECT CONSTRUCTION

The enterprise is to complete the project within the period specified for construction, conforming to the standards and specifications prescribed in the agreement and to the satisfaction of Implementing Agency. Any delay in completion of the project will be to the account of the enterprise, unless there is delay from the Government and/or Implementation Agency's side, for which appropriate extension in the construction period may be allowed.

(xvii) TERMINATION OF CONCESSION

a) In the event the Government terminating the agreement for any reason attributable to it, the enterprise will be compensated for all the costs incurred by it on the project plus interest thereon at the rates indicated in the bidding documents minus the revenue accrued to the enterprise. The Government may depute independent Auditors for working out the amount of compensation, and the enterprise will supply the details as may be required by the Auditors. In such event, the lenders will have first charge on the amount of compensation due from the Government.

b) If the concession agreement has to be terminated due to inability of the enterprise to fulfil its obligations, the Government's liability towards the enterprise will be restricted to an amount not greater than 95% of the debt secured to project assets that would stand transferred to the Government/Implementing Agency upon such termination, where necessary, the Bidding conditions may stipulate other forms of termination payment as may be required in accordance with international norms.

MANAGEMENT OF HIGHWAY BUILT THROUGH PRIVATE INVESTMENT

i) MANAGEMENT OF THE HIGHWAY STRETCH

For the purpose of proper management the highway stretch built through private investment, the enterprise will have powers to regulate and control the traffic on the highway stretch forming part of the agreement between the Government and the enterprise. In order to reduce interference from other authorities, no sales tax and octroi barriers will be established on the highway stretch, but properly designed unified check barriers may be allowed at the inter-state borders, located out side the right-of-way with proper entry/exit layouts.

(ii) REGULATORY FRAMEWORK

The Government will carry out the Regulatory functions. The upper limit of the user fee applicable for the initial years will be stipulated in the agreement, together with the fee revision formula applicable for the subsequent years and appropriate upper limit of fees shall be notified by the Government from time to time. The enterprise will be free to charge less than such notified fee. The Implementation Agency will ensure that the highway facility is available to all the users on equal terms and no user is charged more than the notified fee, or harassed in any manner and that the private facility does not result in the creation of private monopolies. The Implementation Agency will also ensure that the highway stretch is maintained to the proper standards. The Implementation Agency may carry out surprise and periodic checks, and for any default of the enterprise, suitable penalties on the defaulting enterprise may be imposed by the Implementation Agency.

The enterprises will be obliged to protect the national interests like national security whenever necessary and required. They will abide by various statutory requirements relating to protection of environment, safety etc. and also abide by the directives issued by the Government/ Implementation Agency in this regard from time to time.

(iii) REVISION OF FEE

The revision of the fee may be allowed every year from the year of opening the road for traffic, linked to the Wholesale Price Index (WPI).

(iv) DISPUTE RESOLUTIONS

Any dispute between the Implementation Agency, the Government and the enterprise will be settled under the provisions of Indian Arbitration Act, 1996, which provides Arbitration procedures on the lines of UNCITRAL.

(v) TRANSFER OF THE PROJECT TO THE GOVERNMENT

For the purposes of transfer, the project will consist of the assets built within the right-of-way and the junction/inter-section areas and the enroute highway related facilities. At the end of the concession period, the project, in sound condition, shall be transferred by the enterprise to the Government free of any cost. The standards to which the project will conform to at the time of its transfer to the government will be laid down in the concession agreement. Even after the transfer of the project to the Government, the Implementation Agency will continue to exercise control on the highway related developments at the entry/exit points and the advertisements.

FISCAL & TRADE/INDUSTRIAL POLICIES

(i) FISCAL INCENTIVES

Tax Incentives / Concession

The following tax/fiscal concessions are available to this sector :-

(a) Concessions Available for Enterprise Undertaking any Project :

Under Section 80IA of the Income Tax Act, where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business of (i) developing, (ii) operating and maintaining or (iii) developing, operating and maintaining, a road including toll road, a bridge or a rail system; a highway project including housing or other activities being an integral part of the highway project; a deduction is allowed, of an amount equal to hundred percent of profits and gains derived from such business, for ten consecutive assessment years out of twenty years beginning from the year in which the undertaking begins to operate the business.

(b) Concessions Available for Lenders/Investors:

i. As an incentive to financial institutions to provide finance for the infrastructure projects, deduction up to 40% of their income from financing of these investments is available provided the amount is kept in a special reserve.

ii. Exemption for Infrastructure Funds from Income Tax on the incomes from dividend, interest on long term capital gains of such funds or companies from investments in the form of shares or long term finance in any enterprise set up to develop, maintain and operate an infrastructure facility.

iii. Subscription to equity shares or debentures issued by a public company formed and registered in India and the issue is wholly and exclusively for the purposes of developing, maintaining and operating an infrastructure facility, will be eligible for deductions under Section 88 of the Income Tax Act, 1961, which permits deduction equal to 20% of the amount subscribed, from the amount of tax payable by the subscriber.

(c) Customs Duties

Customs Duties on import of construction equipment have been considerably reduced and procedure streamlined. However, on certain identified high quality construction plants and equipments import duty has been exempted, altogether. Import of bitumen is now permitted under OGL.

(ii) AVAILABILITY OF LONG-TERM FINANCE

The Government of India and Reserve Bank of India have established a Infrastructure Development Finance Company (IDFC), with an authorised capital of Rs. 50,000 millions. The IDFC is a direct lender, refinancing institution and provide financial guarantees for the infrastructure projects.

(iii) OTHER INCENTIVES

- Tolls rates indexed to Wholesale Price Index.
- National Highway Authority of India authorised to provide capital grant upto 40% of project cost to make the project viable. However, the quantum of the grant would be decided on case to case basis.
- The Government has agreed to permit the development of housing and other activities as an integrated part of BOT road projects. For this purpose profits from housing and other development activities ploughed back to the road project within a maximum period of three years, would be treated as investment in infrastructure for tax benefits.
- External Commercial Borrowings upto 35% of project cost permitted.
- Import duties on modern and high capacity road construction equipment have been removed.
- Development of BOT on Government to Government basis agreed in principle.
- Land required for housing and other development activities forming integral part of BOT Highway projects would be acquired as part of land for Highway projects.

FOREIGN INVESTMENT POLICY

Foreign Direct Investment (FDI) upto 100% under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, etc.

MAJOR CLEARANCES REQUIRED FOR ROADS AND HIGHWAYS

Table: 8

CLEARANCES	CLEARING AUTHORITY
Cost Estimate	Ministry of Shipping, Road Transport & Highways/Public Works Department/ National Highway Authority of India
Techno economic clearances	Ministry of Shipping, Road Transport & Highways/Public Works Department/ National Highway Authority of India
Pollution clearance (water & air)	Central Pollution Control Board
Forest clearance	Ministry of Environment & Forests
Environmental clearance	Ministry of Environment & Forests
Company Registration	Registrar of Companies
Rehabilitation & Resettlement of Displaced families	Ministry of Shipping, Road Transport & Highways/State Govts.

USEFUL ADDRESSES

Ministry of Shipping, Road Transport & Highways
Chief Engineer (Planning)
Transport Bhawan
1, Parliament Street
New Delhi - 110 001
Telefax: 91-11-2371 0134
E-Mail: cecord@nic.in
Website: http://www.morth.nic.in/

Chief General Manager (BOT)
National Highways Authority of India
Plot No. G 5 & 6
Sector X, Dwarka
New Delhi-110 045
E-mail:awasson@nhai.org

For updates and other related information maintenance of roads, highways, vehicular bridges, toll roads, etc
Website: http://www.nhai.org

Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
Secretariat For Industrial Assistance (SIA)
Joint Secretary, SIA
Tel: 011-23011983
Fax: 011-23011034
E-Mail: dipp_sia@ub.nic.in

Deputy Secretary
(Investment Promotion & Infrastructure Development Cell)
Tel: 011-23014218
E-Mail: chanchal.kumar@nic.in

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