

**REPORT OF THE COMMITTEE OF
STATE FINANCE MINISTERS ON
STAMP DUTY REFORM**

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REPORT OF THE COMMITTEE OF STATE FINANCE MINISTERS ON STAMP DUTY REFORM

I. INTRODUCTION

A Committee of State Finance Ministers (on Sales Tax Reform) had been appointed by the Union Minister of Finance on 4th July 1994 to study various aspects of reform - vide Notification F.No. 31/56/93-ST. It was later on decided to entrust the same Committee of State Finance Ministers, with a few co-options if necessary, the task of examining the Report on 'Economic Reforms and the Stamp Act', prepared by the National Institute of Public Finance and Policy (NIPFP), New Delhi, and make recommendations on measures to bring about the needed reforms.

Accordingly, through Notification F.No. 31/56/93-ST, Government of India, Ministry of Finance, Department of Revenue New Delhi, dated the 24th August, 1995, the Ministry of Finance referred the NIPFP report on the Reform of the Stamp Act to the Committee consisting of the State Finance Ministers of Andhra Pradesh, Assam, Delhi, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Dr. Raja J. Chelliah, Chairman, NIPFP would be the convenor of the Committee. By a separate notification the Committee was authorised to co-opt other States or any expert as a member.

For convenience, the Committee is here referred to as the Committee of State Finance Ministers on Stamp Duty Reform. Originally, the Committee was to submit its Report by June 30, 1996. The life of the Committee was later extended upto 30-9-1996, vide Ministry of Finance, Department of Revenue, Resolution F.No. 31/56/93-ST dated 10th July, 1996.

The NIPFP was requested to act as the Secretariat of the Committee. This arrangement was finalised only in March 1996. After that, it was not possible to hold a Ministerial meeting soon, because of the preparations for, and the holding of, National and Assembly elections. However, a technical meeting of the senior officials of the concerned State Governments was held at NIPFP, New Delhi, on 11th May 1996. The list of officials who attended the meeting is given in Appendix I. The convenor had a discussion session with the representatives of several financial institutions and the senior officials of the Government of Maharashtra in Mumbai on 29th January, 1996. The purpose of the meeting was to understand the view point of the leading financial institutions on the impact of stamp duty on documents used in financial transactions and to get an idea of the stamp duty reform recently carried out by the Government of Maharashtra especially in relation to financial transactions. The list of representatives who participated in that meeting is given in Appendix II.

The first meeting of the Committee was held on June 22, 1996 at NIPFP, New Delhi. At this meeting the States of Gujarat and Karnataka were co-opted. Bihar had been co-opted earlier in terms of the notification dated August 24, 1995. The Minutes of this meeting are given in Appendix VII. The second meeting of the Committee was held on September 7, 1996. At this meeting the draft report was considered and finalised.

We wish to acknowledge the help we have received from the staff of NIPFP in the course of our deliberations and work. In particular, we would like to express our appreciation of the help rendered by Dr. O. P. Bohra. We would also like to thank Dr. P. S. A. Sundaram, currently the Additional Secretary, Department of Personnel and Administrative Reforms who prepared the Report on 'Economic Reforms and Stamp Act' for the NIPFP. This Report has provided us with much useful background information and a number of worthwhile suggestions on the lines of reform. Lastly, we would like to express our appreciation of the word processing help rendered by Sarva Shri R. Periannan and Anurodh Sharma.

II. THE EXISTING STRUCTURE OF STAMP DUTY AND PROCEDURES

The system of collecting duty through the requirement of affixing stamps to documents and various transaction instruments has been in existence in India for a long time. Under the Constitution, the power to levy stamp duty is divided between the Centre and the States. The stamp duty mentioned in the Union List (See Appendix III) are levied by the Centre but the proceeds are assigned to and collected by the States where they are levied. The stamp duty in the State List are levied and collected by the States (Appendix IV).

Entry 44 of the Concurrent List covers machinery provisions. Parliament has overriding powers in respect of the machinery provisions. Hence the Centre can, with the cooperation of the States and common consensus, ensure the adoption of more or less uniform procedures, which also do not involve delay, harassment or undue costs. However, as things stand, the States have amended the provisions relating to various duties in different ways and so differing procedures are followed in the various States in respect of stamp duty on several documents. Similarly, while there is uniformity of rates throughout the country in regard to the instruments in the Central List, in regard to many instruments in the State List one often finds varying rates among the different States - sometimes the rates vary widely. While each State has the right to fix the rates independently, more uniformity, or less variations would avoid diversion of economic activity and would greatly help business and industry.

Revenue Significance

In 1994-95 (RE) Stamps and Registration fees as a whole, non-judicial and judicial taken together, for all States, were to bring about Rs 4660 crore forming 6.50 per cent of their own revenues and 3.88 per cent of their total revenues. Of the two classes of stamp duty, judicial stamp duties are not significant from the revenue point of view.

It is seen that although stamp duty and registration fee form about 6.5 per cent of their own revenues of the State governments they constitute only 3.9 per

cent of their total revenues. A small reduction in revenues from this source in the short-run due to reform need not therefore be of great concern. In fact, however, streamlining of administration, reduction of rates and plugging of evasion could be expected to lead to significant increases in revenue, if not immediately, at least within the medium term of two to three years.

This paper deals with non-judicial stamp duties. Of the non-judicial stamp duties, the stamp duty on conveyance is by far the most important revenue provider and is also the one which is associated with the most severe problems. It needs the most urgent attention also because it affects the largest number of people including ordinary citizens. We shall therefore be dealing with this particular stamp duty in greater detail.

Major Problems with Stamp Duty

It has been felt that in the context of liberalisation and reforms designed to reduce costs and accelerate the growth of the economy, the structure of stamp duties and the procedures relating to their collection need to be re-examined. The examination of this subject that we are undertaking can be considered part of the process of tax reform.

There have been complaints from trade and industry as well as from ordinary citizens that the manner of levy of stamp duties and of their collection impose hardship, involve harassment in several cases and lead to increases in costs. Our study of this matter has brought out the following major problems:

- a. The differing rates of stamp duty on several State instruments lead to diversion of economic activity and also to loss of legitimate revenue to some States.
- b. Distinction has not always been made between duties which could be used as sources of tax revenue and those which are to be used primarily for regulatory purposes or for imparting evidentiary value.

- c. Rates of duty on some of the State instruments are on the high side. Experience has shown that high rates not only tend to retard the growth of the economy (which reduces the long-term buoyancy of revenue), but also induce avoidance and evasion and in some cases cause distortion.

- d. The fixing of different *ad valorem* rates of stamp duty and the method of collecting duty through the fixing of stamps or the use of stamp paper are causing severe hardship to transactors of business. Stamps of the required denomination or magnitude are often not (readily) available, and furthermore, it often becomes necessary to fix a large number of stamps on documents making the package of documents too bulky and cumbersome. It has also been alleged that there is a surplus of stamps in some centres (over demand) and scarcity of stamps in others. Such a situation enables unscrupulous vendor cartels to profit at the expense of the common citizens through charging an illegal premium while selling stamps in the scarcity centres. It has been brought to our notice that ordinary citizens have often to pay more money to the vendors than the value of the stamps bought, because there are not enough vendors.

- e. Given that there are property tax and capital gains tax, which property owners are liable to pay, the rates of stamp duty in many States are regarded as high. High rates of stamp duty on conveyance, in the context of additional liability to pay the capital gains tax, leads to large scale undervaluation of properties transacted. Several State governments have attempted to combat this by computing and laying down minimum or guideline values. While this device has checked gross undervaluation to some extent, since the values are not generally calculated and laid down by independent authorities and no well-accepted scientific methods are used, the guideline values are not always accepted and a large number of disputes arise, leading to the reference of the cases to the District Collector (the Revenue Department). Then attempts are made by property transactors to

"influence" the officials of the Revenue Department. In our view a lower rate of duty combined with steps to ensure proper valuation, which cannot easily be challenged, would benefit revenue, minimise disputes and reduce the generation of black money in property transactions.

- f. Partly because of the need to affix stamps and partly because of other procedural deficiencies, registration of documents, particularly of those relating to conveyance, involves delay, trouble and avoidable harassment.

In view of the problems listed above, we feel that the reform of the Stamp Act and the related procedures is urgently needed.

III. APPROACH TO REFORM OF STAMP DUTY

Our approach to the reform of stamp duty and the related procedures is based on the following considerations:

- a. If the stamp duty on a given document fulfils the criteria of a good tax, that is, it can be related to ability to pay, it will not lead to cascading and escalation of costs and it will not cause distortions in the allocation of resources, then it can be used as a method or instrument of raising resources, keeping of course the rate of duty at the optimum or the most desirable level taking all relevant factors into account. However, if the duty on a particular document (say, the issue of shares or a bill of lading) would not satisfy the criteria, then it would be better to treat it more as a fee for regulatory purposes, even though as a duty it is technically a tax. In other words, the government may on its own volition, on broader economic considerations, use that duty primarily for regulatory purposes or for the purpose of imparting evidentiary value.

- b. Given the difficulties and problems associated with the payment of duty through the use of stamps, an alternative method must be adopted at least in respect of those instruments in whose cases large and frequent payments of duty are involved.
- c. The administrative aspect is extremely important and hence we shall lay stress on procedural simplification.
- d. Greater uniformity of rates of stamp duty on State instruments is very desirable. An attempt should be made to arrive at a consensus on the rates of duty.
- e. If agreement is reached among the States on procedures in respect of major instruments, the Central government can enact legislation to give effect to such agreement.

In Appendix V, we give a brief account, for general information, of the recent reforms in stamp duty carried out in the United Kingdom and Australia. (The U.K. is the country from which we got the idea of using stamps for collecting duty, and Australia is a federal country).

IV. PROPOSALS FOR REFORM

Conveyance or Transfers of Property

As already stated, stamp duty on conveyances is the largest single source of revenue in spite of the considerable undervaluation of property and avoidance through non-registration. The stamp duty on property transfers is clearly intended to be a tax: conceptually, it can be justified as a tax on part of wealth as well as a tax on realised capital gain (although the legal obligation to pay is on the buyer). However, where there is annual tax on real property based on current annual or market value, and also a capital gains tax as part of the income tax, from the

equity point of view, the case for a rather high rate of stamp duty is weak. We recognise that in fixing the rates, the combined incidence of the property tax, the capital gains tax, the stamp duty and the registration fee should be kept in view. High rates act as powerful incentives for avoidance and evasion. While all possible legal and administrative remedies should be put into operation to check evasion, the success of such remedies would be greatly facilitated by the adoption of reasonable rates. What may be temporarily lost in revenue would be more than compensated by better valuation and checking of non-registration of property transfers. Where the rate of stamp duty is fairly low, as in the United Kingdom, it is reported that the tendency to undervaluation is hardly present.

In India, the structure and level of stamp duty on conveyances vary from State to State¹. While in a number of States, there is a flat rate, in some others there is a progressive schedule. The rates are generally on the high side. We have already indicated that high rates are not desirable. We also feel that any marked degree of progression is not justified, because progression in stamp duty rates would imply that the higher the value of the property transferred, the proportionately richer must be the buyer and the seller and this is not necessarily true. However, the adoption of one low rate for very low-value property in addition to a higher, moderate, general rate may be justified. On the other hand, having a single rate means simplicity in administration.

It would be in the common interest of all the States if one moderate rate is adopted by all the States. If it is not possible to have a uniform rate of duty on conveyance across all the States, at least the States should agree to fix rates within a fairly narrow common band. One possibility is to agree to adopt, to start with a band ranging from 10 to 5 per cent, which in course of time could be narrowed to 6 to 8 per cent, that is to say, for the present each State should fix one flat rate of duty, falling between a minimum of 5 per cent and a maximum of 10 per cent. This range could be narrowed in course of time on the basis of consensus. Of course,

¹ Rates of duty in selected States are given in Appendix VI

along with the lowering of rates, there should be set up a machinery for adequate valuation of property and also measures should be adopted to minimise the possibility of avoidance such as bringing transfers through power of attorney within the definition of conveyance.

Some States voiced the fear that they might lose revenue if they brought down the rates of stamp duty drastically. An opinion was also expressed that with rate reduction, compliance may not increase sufficiently to lead to a compensatory increase in revenue. In this connection the representative of Maharashtra revealed that in his State the reduction in rate has definitely led to buoyancy in the yield of stamp duty. The meeting was also informed that Punjab had brought down the duty to 6 per cent and West Bengal to 5 per cent. The consensus was that those States where the rate of stamp duty was quite high at 13-14 per cent or so should gradually bring down the rates while simultaneously improving valuation and methods of collection.

Valuation

In administering the stamp duty on conveyances, the valuation of property plays a crucial role. As already stated, because of the generally high rates of stamp duty on conveyance prescribed by different States, there is a very strong tendency for under-valuation of property. On the other hand, the correct determination of market value is beset with many problems. Properties or real estates differ in terms of age, quality of construction, the state of repair and location. All these factors are taken into account when the market determines the value of any given property. It is of course difficult independently to assess what would be the market value of any property. The value mentioned in the property transfer deed cannot be accepted as a matter of routine, because such acceptance would lead to under-valuation. On the other hand, if the discretion to question the value is given to the registrar or sub-registrar, one would be creating avenues for harassment, corruption and collusion. Hence, several States have endeavoured to fix guidance values for properties in various localities. It is understood that guidance values have

been determined mainly by the Department of Registration itself though in some States District Level Committees have been set up to participate in the process of valuation. The values as decided by the department have not been generally acceptable to the public except when there is some under-valuation.

In some of the States, the guidance values are displayed on boards on the walls of the Registration office. If a person coming to register a property does not accept the guidance value, he can ask for his deed to be referred to the Collectorate of the district for a review. Thus, delay is created. One main reason for non-acceptance of guidance values seems to be the inadequate basis on which valuation is arrived at and the tendency to fix values on the high side particularly for lands in rural areas. Experts in this area are coming to the view that an independent Central Valuation Board or Cell must be established in each State which would consist of expert valuers having background in engineering, real estate business, etc.

We are of the view that there should be a Central Valuation Cell in each State. The members or representatives of these Cells in different States can often meet and exchange experiences. As a result of the discussions, a uniform method of valuation could be arrived at to be applied to properties all over India. Once such valuation mechanism is set up, the values evolved by the Valuation Cell should be considered to be final values². The transferee of a property should have no option to ask for referral of his case to the Collectorate. As far as the State government is concerned that value should be the final value. It should of course be open to the transferee to go to court. However, if values are fixed somewhat below the market rate, say at the level of 80 per cent of market rates (which might be periodically revised), there would be little incentive to go in for any litigation. It is important to emphasise that the job of valuation should be completely taken away from those who would be involved in collecting the tax. However, the Central Valuation Cell itself may be under the Inspector General of Registration as a separate entity. Valuation is a

² One alternative method suggested is that the principles of valuation should be laid down by the Valuation Cell and that the actual determination of values should be left to district level Committees.

difficult job. It is necessary to give proper training to valuers. It would be useful to set up four regional training colleges for valuers.

If Valuation Cells are to be set up to determine market values for different properties and such values are to be used for the determination of stamp duty payable, it would be necessary to amend suitably Section 47-A of the Indian Stamp Act to the effect that the State government shall provide the principles to be followed for the determination of the market value of the property which shall be applied to the valuation of different properties on the basis of which stamp duty shall be payable.

Definition

The definition of conveyance or transfer of property subject to stamp duty is obviously a matter of importance from both the revenue and equity points of view. If the definition is not wide enough to cover all property transactions which are really in the nature of conveyance, several transfers will escape payment of duty. High stamp duty rates have induced transactors to seek ways of transferring property without executing a proper conveyance deed. Also, new types of transactions like selling "air rights" have come to be undertaken. Hence we feel that the definition of conveyance should be adequately widened.

Broadly along the lines of the amended Bombay Stamp Act (1985), it would be necessary to include in "Conveyance"

- a. Conveyance on sale,
- b. Every decree or final order of any Civil Court, and every order made by the High Court under section 394 of the Companies Act, 1956 (I of 1956) in respect of amalgamation of companies. (But such amalgamation transfers should be subjected to lower duty. See below). As regards court sales effected for genuine recovery of the dues of the

Banks and term lending Financial Institutions, while the institutions argue that they should be exempt, the Committee could not come to a unanimous decision.

- c. The grant of power of attorney accompanied by agreement to sell and transfer of possession of immovable property and
- d. Sale of air rights

The 1985 amendment to the Bombay Stamp Act has widened the definition of conveyance to include all Civil Court or High Court orders by which property is transferred. However, the representatives of leading Banks and Financial Institutions have pointed out that the legislative intent in including a decree or final order of a Civil Court for the purpose of the definition of "Conveyance" appears to be to prevent collusive litigation which was ultimately compromised and transfers were effected under the relevant consent decrees. They argue that the definition, however, has travelled beyond the legislative intent and has adversely affected the Court Sales for genuine recovery of the dues of the Banks and Financial Institutions pursuant to the suits filed by them for enforcement of their securities. By virtue of the amended definition of "Conveyance" under the Bombay Stamp Act, the decrees for sale of the properties obtained in such suits will attract heavy stamp duty and frustrate the very purpose for which the suits were filed by the Banks and Financial Institutions. They further argue that the mortgages pursuant to which the property is sold through the Courts are already subjected to stamp duty in Maharashtra and, therefore there is no case for taxing the Court sales pursuant to such mortgage again. In the light of this representation, this question may re-examined by the full conference of Finance Ministers.

Registration

It has already been indicated that getting documents, particularly transfer deeds, registered is creating severe hardship partly because of non-

availability of stamps of the required magnitude, partly because of the procedures laid down but mainly because of valuation disputes.

As for valuation, we have already recommended the creation of an expert Central Valuation Cell in each State. This would go a long way in cutting down delays and disputes.

Secondly, it will be necessary to minimise the need to use stamps. Franking machines should be widely used. Where they cannot be used, payment through the bank challan should be allowed.

Thirdly, the present practice of the sub-registrar impounding documents on account of deficient stamp duty leads to inordinate delays in registering the documents presented. There is near-unanimity of opinion that once the document is presented for registration to the sub-registrar and if the stamp duty is not correctly paid and if the presenter is ready to pay stamp duty on the basis of bench mark values then the sub-registrar should be allowed to collect the deficient portion of stamp duty and endorse accordingly on the face of the instrument. It is suggested that the sub-registrar should indicate in writing to the presenter the market value on the basis of bench mark value and also the exact amount of deficient stamp duty. If the presenter is ready to pay the deficient portion of stamp duty then he should communicate his acceptance in writing to the sub-registrar. The presenter thereafter may bring cash, demand draft or duly receipted challan of the designate bank. The endorsement of the sub-registrar on the face of the instrument regarding such receipt of deficient portion of stamp duty should be treated as conclusive evidence of payment of stamp duty.

Fourthly, once the proper amount of duty has been paid and the document is lodged with the sub-registrar, the registration of the document should be completed expeditiously and a time limit should be fixed for the sub-registrar to return the document. The prohibition to register documents unless No Objection Certificates (NOCs) under Section 230(a) and 269(c) of the Income Tax Act and also clearance

under the Urban Land Ceiling Act are produced has been a source of much hardship. This requirement is reported to have also created a huge backlog of registration of documents, which leads to problems of unclear titles to the legitimate purchasers. It is recommended that the requirement of NOC under Section 230(a) should be dispensed with. Instead, the seller of immovable properties valued more than Rs 10 lakh should give an intimation in writing to the concerned Income Tax Officer about his intended sale. The postal acknowledgement of the Income Tax Officer (ITO) on the intimation in writing should be produced before the sub-registrar at the time of presentation of document for registration.

In case of NOC under ULC Act it is felt that by now the implementation of the Act over the last 20 years should have achieved its objectives adequately. It will be now necessary to free the process of registration from the shackles of provisions of this Act³. It is suggested that the sub registrar should be allowed to register documents without NOC under ULC Act. The sub-registrars may be required to send detailed information in a predetermined format regarding transfers of land registered with him every month to the competent authorities appointed under the ULC Act⁴.

The necessary amendments to the ULC Act and Income Tax Act should be carried out immediately.

Suggestions were made by some of the States that registration should be made mandatory. In the case of conveyance, registration is in the self interest of the buyer of the property. However, it seems that registration is sometimes avoided in order to save duty. It will be, therefore, useful to make registration of conveyance compulsory.

³ Tamil Nadu has already removed this condition.

⁴ The West Bengal government has expressed the view that this may be decided by the State government.

Place of Registration

Section 30(2) of the Registration Act permits the registration of sale of a piece of property located in any part of India in the cities formerly called presidency towns (now metropolitan cities), namely Bombay, Calcutta, Delhi and Madras. It is the general consensus that this section must be deleted.

It has been reported that a problem has arisen also in respect of property that happens to be situated partly in one State and partly in another State. There is a tendency to get the whole property registered in the State where the rate of stamp duty is low. The problem is likely to disappear if a uniform rate of stamp duty is adopted. However, Section 28 may be amended to the effect that in the case of properties situated in more than one State, registration should be done in each State only to the extent of the property situated in that State.

Registration Fees(RF)

It is necessary that fees collected should have nexus with services rendered. The rate of levy of registration fee varies from State to State. Collection of registration fee on an *ad valorem* basis without a monetary ceiling is unjustified and not in keeping with the judgement of the Supreme Court in the Chief Commissioner of Delhi v. Delhi Cloth and General Mills Limited, AIR 1978 SC 1191. It is suggested that the registration fee may be levied on the initial slabs @ 0.5 per cent and be made progressive upto 1 per cent. A cap should be placed in the spirit of the Supreme Court judgement.

Flats

It has been pointed out to us that there is a problem in regard to stamp duty payable on the purchase of apartments or flats. Since, in most States (not Delhi), the development agreement between the builders and the land owner is considered to be conveyance, the stamp duty becomes payable at subsequent stages

also including with the formation of the co-operatives. In Maharashtra, now there is a provision for giving set-off to duty paid at the earlier stages. We agree that the purchasers of the flats should be liable to pay duty only on the value of the flats (exclusive of duty paid earlier). Hence, any duty paid earlier must be set-off against the duty payable by him at any later stage. Conditions may vary from State to State and hence some flexibility must be allowed to the State governments in this matter. However, the equity consideration that the flat owner should not be burdened with multiple duties should be kept in view.

Mortgages and Securitisation of Mortgages

Mortgages accompanied with the handing over of property are generally treated as conveyance and subject to the same duty as applicable to conveyance. There are, however, other types of mortgages and there is also the question of the stamp duty to be levied on securitisation of mortgage or debt instruments.

Historically, equitable mortgages always remained outside the purview of stamp duty provisions. This was because the said mortgage is created pursuant to the provisions of Section 58 (f) of the Transfer of Property Act, 1882, in terms of which no instrument is required to be executed or registered for creation of such mortgage and the mere deposit of title deeds with intent to create a security on the immovable property is enough. Initially, such mortgages were permitted to be created only in presidency towns such as Calcutta, Madras and Bombay. However, by virtue of the notifications issued by almost all the States pursuant to the provisions contained in Section 58 *ibid*, equitable mortgage can now be freely created in all major towns/cities throughout the country. This mortgage is looked upon as an expeditious mode of creation of security by the Financial Institutions and Banks because of its simplicity of form and cost saving effect. This position existed in all the States until 1977. However, thereafter, in the States of Maharashtra, Gujarat and Madhya Pradesh this privilege was removed because these commercially important States amended stamp laws and subjected this mortgage also to payment of stamp duty. This development has adversely affected the loan transactions of the Banks and

Financial Institutions and thereby the industrial and economic development. The trend is likely to be followed by more and more States. As stated above, no instrument is required to be executed for creation of the equitable mortgage. It is also well settled that stamp duty is payable on the instrument and not on the transaction. It, therefore, follows that since there is no instrument, no stamp duty should be chargeable on the equitable mortgage. The amendments made in the stamp laws in some of the States treat the Memorandum of Entry or other writing recorded by the Banks/FIs in connection with equitable mortgage for future memory as an instrument creating the mortgage. The true nature of such Memorandum is a record of past transaction and it is not the instrument creating the mortgage itself. The Courts in India have accepted this position and the same is now well settled. We feel that the amendments made by the three States as above are not in accord with this well settled legal principle. Keeping these factors in view in Maharashtra now the rate of duty has been fixed at 0.5 per cent with a monetary ceiling of Rs 50,000. It is suggested that this concessional duty with a ceiling should be fixed in all the States for equitable mortgage of movable as well as immovable properties.

Mortgage by Way of Hypothecation of goods - Pawning or Pledging

This kind of mortgage should also be subjected to a lower rate of duty and there should be a monetary ceiling. Mortgages where possession of property is not given should be subjected to a lower rate of duty of 2 per cent with a monetary ceiling (in Maharashtra the monetary ceiling is now Rs 2 lakh).

Securitisation

Securitisation is expected to develop a secondary mortgage market in India. One of the obstacles is said to be the stamp duty problem. Securitisation involves:

- (i) Transfer/assignment of debt;
- (ii) Constitution of a trust; and
- (iii) Issue of Pass Through Certificates (PTCs).

All the above aspects of the securitisation would attract heavy stamp duty under the existing provisions of the Stamp Acts in all the States. The Government of Maharashtra has taken some initiative for giving some relief in this regard under the Notification No. STP 1094/CR-369/(C)-M-1 dated May 11, 1994. Under the said notification, stamp duty payable on transactions relating to securitisation of loans that are secured by movable property only has been remitted to 0.1 per cent. However, since the said remission is restricted only to loans secured by movables and does not cover the security of immovables, such as a mortgage, it does not meet the needs of securitisation by the Banks and Financial Institutions whose major loan portfolios consist of mortgage backed loans.

It is suggested that in all the States the stamp duty payable on transactions relating to securitisation of loan that is backed by immovable property may be brought under a notification similar to the above mentioned Maharashtra notification. Furthermore, remission may also be granted in respect of PTCs issued in the form of bonds (Article 13 of the Bombay Stamp Duty Act and corresponding provisions of the Stamp Acts applicable in other States). It may be pointed out in this connection that no revenue is accruing to the States from the source of securitisation. West Bengal wanted more time to study the question.

Issue of Debentures

Under Article 27 to Schedule-I of the Indian Stamp Act 1899, exemption from stamp duty is available in respect of debentures issued by a company through a registered mortgage deed whereby the company makes over in whole or in part its property to Trustees for the benefit of the debenture holders. Then only stamp duty on the Trust Deed is payable. Since the rate of this duty varies from State to State there is inducement for companies to register their trust deeds in the States where the rates are on the low side. The solution is to make the rate of stamp duty against the mortgage of property with the Trust be uniform. A low rate with a monetary ceiling as in Maharashtra and Gujarat may be adopted in all the States.

Other State Instruments

Other instruments may be divided into two categories: (a) those which can be subjected to *ad valorem* duty; and (b) others which need to be subjected only to fixed or specific duty.

Bonds and its Variations like Bottomary Bond and Respondentia Bond

These bonds should not have a rate higher than 2 per cent. There could also be a monetary ceiling. The bonds issued by local authorities should not carry a rate of more than 0.5 per cent. These low rates are recommended in order to promote the growth of the bond market and to minimise the cost of borrowing by local authorities.

Amalgamation/ Merger of Companies

Interest in the treatment of amalgamation has been generated by the treatment of instrument of amalgamation scheme/High Court orders approving amalgamation as conveyance by the Maharashtra and Gujarat Acts. In defence of this, it has been argued that amalgamations were always treated as conveyance even under pre-cursor. However, in the today's context of accelerating growth, this treatment of amalgamation approved by courts as conveyance is quite detrimental to the concept of creating larger corporations/companies which can achieve economies of scale and become globally competitive. In this light, the States may wish to apply a concessional rate of duty on such amalgamations. This may be left to the States to decide. However, there should be no stamp duty on amalgamation of sick companies under the orders of BIFR.

Lease of Movable Property

In relation to automobile finance the rate should be one per cent of one year's annual average rent (AAR) plus amount of premium. As regards machinery, while the rate could be the same there should be a monetary ceiling of Rs 20,000 or Rs 30,000.

Articles of Association

An *ad valorem* duty on this instrument adds to the cost of starting a business or industrial activity. Since the Registrar of Companies also levies fees at 0.15 per cent, the cost goes up further. It is suggested that the stamp duty paid on this as well as the fees on incorporation charged by Registrar of Companies should be 0.15 per cent of the authorised share capital (i.e., a total of 0.3 per cent) with a monetary ceiling of Rs 10 lakh (combined).

Partition Deed

It is suggested that a uniform duty of one per cent may be charged on partition deeds.

Partnership Deed

The rate should be one per cent with a ceiling of Rs 5,000 (as in Maharashtra).

Transfer of Debentures

The rate on this should not be more than 0.5 per cent. A ceiling Rs 10,000 should be prescribed (as in Maharashtra). West Bengal did not favour a cap.

State Instruments Subject to Specific Duty

There are 33 State instruments in the Schedule to the State Stamp Act on which there should be specific duty, namely Re 1, Rs 20, Rs 100 and Rs 200. These limited number of rates would obviate the need to print stamps of a large number of denominations. These stamps of Rs 2, Rs 20, Rs 100 denomination as well as stamp of Re 1 denomination could be sold also through post offices and even banks.

There are 29 State instruments on which duty is *ad valorem*. We have discussed the more important ones in the foregoing paragraphs. A large number of other instruments classified under the Article "Agreement or Memorandum of an Agreement or Record thereof" should be reduced into a fewer number and be subjected to specific rates of duty. Specific duty will also obviate the need to calculate and arrive at the stamp duty due and finding stamps of the required magnitude. The specific duty rates can be adjusted upward for inflation in unison by all the States, say, every 3 years or so.

Central Instruments

Bill of Lading, Letter of Credit, Promissory Note and Bill of Exchange

Except for shares and debentures traded in stock exchanges, most of the Central instruments are used in the course of business and trade. It has to be emphasised that the requirement that these instruments should have a stamp affixed is only to impart them evidentiary value in case of disputes. None of these instruments should be looked upon as sources of revenue but only as fees.

Keeping the above in view, bill of lading, letter of credit and promissory note of more than three months' duration should be prescribed a fixed rate of Rs 2. Bill of exchange and promissory note of less than three month duration should remain exempt or be subject to a specific duty of Re 1. A bill of exchange of more than three months duration should attract a uniform duty of 0.5 per cent.

Proxy and Receipts

Proxy and receipts should attract a fixed rate of Re 1. Thus, there will be need to print only stamps of two denominations for these instruments, as well as for letters of credit and promissory notes namely, Re 1 and Rs 2.

Shares

The practice of requiring the transferee to purchase and affix stamps acts as hindrance to share market transactions. With the introduction of depositories and scripless trading this practice will have to go. Advanced countries like the UK are planning to abolish duty on the transfer of shares and other instruments through the stock market. If for revenue reasons this cannot be done in India now an alternative method of collecting duty will have to be devised when scripless trading comes into force. The rate of duty should remain at 0.5 per cent.

Insurance Policies

Under an equitable tax system, taking out a life insurance policy should not be treated as a taxable event, because such insurance is meant for the protection of a related person. Again, if the cost of general insurance is unduly raised, the cost of doing business and hence the cost of production is raised.

The main reason for levying a stamp duty on insurance policy documents would be to impart them evidentiary value. As the Committee of the Department of Revenue has recommended, the stamp duty on insurance policy may be fixed as follows:

- (a) GIC will pay to government duty at a uniform rate of 20 paise for every Rs 100 of gross direct premium collected;
- (b) LIC will pay duty at the uniform rate of 50 paise on each block of assured sum of Rs 1,000 or a fraction thereof.

No stamps will be used. The word "Duty paid" will be stamped on the policy documents. GIC and LIC may maintain revolving credit accounts with the Treasury or the State Bank (and other designated banks). At the end of every month they will submit a statement of duty collected and due, and the amount will be debited to the account. This in effect means consolidation of stamp duty.

Common Inscription

It would be of great benefit to all transactors of business if a common inscription is embossed on all stamps to be used for payment of stamp duty, namely "revenue stamp" or simply "stamp duty". Stamps to be used as court fees should have the inscription "judicial stamp duty". At present there are 14 kinds of stamps and one kind of stamp can be used only for one kind of document and not for others. For example, an adhesive stamp carrying the inscription "insurance" cannot be used for share transactions. As already stated, the Non-Judicial Stamp Duty (NSD) stamps should have denominations of Re 1, Rs 2, Rs 5, Rs 20, Rs 50 and Rs 100. The existing denominations above Rs 100 should continue.

Modernisation

There was general agreement with the suggestion that the whole system of stamp duty including record keeping, preservation of documents, maintenance of upto date information, valuation and procedures of collection should be modernised. The recommendation for the introduction of the computers including the use of CD-ROM was accepted.

Implementation

After our recommendations in this report are considered and approved, with or without modifications, by the full conference of State Finance Ministers, the Central government in consultation with the States may constitute two groups of experts: One consisting of a few legal experts and selected senior officials of the registration departments to work out the needed changes in the Stamp Act, pursuant to our recommendations, and the other group consisting of experts on valuation to make recommendations regarding the constitution and operation of valuation cells.

List of participants attended the meeting of the Officials of the State Governments (represented on the Committee of State Finance Ministers on Stamp Duty Reform) held at NIPFP on 11th May, 1996 at 10.30 a.m.

S.No.	Name	Designation
1	Sh. K. Baburao	Addl. Inspector General of Registration and Stamps. Andhra Pradesh
2	Sh. H. K. Borua	Superintendent of Stamps, Assam
3	Sh. Girja Sankar Patnayak	Deputy Commissioner, Delhi
4	Sh. R. K. Shah	Secretary Revenue, Gujarat
5	Sh. M. N. Joshi	Joint Secretary (Taxation), Gujarat
6	Sh. A. P. Joshi	Inspector General of Registration and Commissioner of Stamp, Karnataka
7	Sh. S. Ayyappan Nair	Inspector General of Registration, Kerala
8	Sh. Davendra Singhai	Inspector General of Registration, Madhya Pradesh
9	Sh. V. S. Mittal	District Registrar, office of IGR, Madhya Pradesh
10	Sh. Amarjeet Singh	Additional Secretary (Revenue), Punjab
11	Sh. Shyam S. Agarwal	Special Secretary (Finance), Rajasthan
12	Thiru E. Venktachalam	Inspector General of Registration, Tamil Nadu
13	Thiru R. Shanmugam	District Registrar, Office of IGR, Tamil Nadu
14	Thiru N. Nallamuthu	District Registrar, Office of IGR, Tamil Nadu
15	Sh. Anil Swarup	Special Secretary (Institutional Finance), Uttar Pradesh
16	Sh. S. N. Chaudhuri	Special Secretary, West Bengal
17	Sh. D. Gangopadhyay	Inspector General of Registration and Commissioner of Stamps, West Bengal

List of the representatives of Financial Institutions and Government of Maharashtra who attended the meeting on "Economic Reforms and the Stamp Act" held at Housing Development Finance Corporation Ltd. at Mumbai on 29th January, 1996

1. Sh. Johny Joseph,
Secretary
Department of Revenue and Forest,
Government of Maharashtra, Mantralaya,
Bombay 400 032
2. Sh. S. N. Sahai
Deputy General Manager (Law)
State Bank of India, Central Office,
Bombay 400 021
3. Sh. S. H. Bhojani
Corporate Legal Advisor
ICICI, 161 Backbay Reclamation,
Bombay 400 020
4. Sh. G. W. Kshirsagar
Director
Financial Services, Yusuf Building,
Bombay 400 020
5. Sh. Shashikant Jadhav
DSP Financial Consultants Ltd.
Tulsiani Chambers, Nariman Point,
Bombay 400 021
6. Sh. Radheshyam L. Mopalwar
Superintendent & Collector of Stamps
General Stamp Office,
Shahid Bhagat Singh Road, Town Hall, Fort,
Bombay 400 029
7. Sh. Dilip Dixit
Officer on Special Duty
Finance Department,
Government of Maharashtra, Mantralaya,
Bombay 400 032

8. Sh. K. N. Pujara,
General Manager (Legal)
Unit Trust of India,
13 Sir Vithaldas Thackersey Marg,
New Marine Lines,
Bombay 400 020
9. Sh. Basudeb Sen
Chief General Manager,
Unit Trust of India,
13, Sir Vithaldas Thackersey Marg,
New Marine Lines,
Bombay 400 020
10. Sh. M. R. Mondkar
President
J.M. Financial Investment Consultancy Service Ltd.,
141, Makers Chambers III, Nariman Point,
Bombay 400 021
11. Sh. B. D. Ushir
General Manager (Legal)
Industrial Development Bank Of India,
IDBI Tower, Post Bag No. 10020/19968,
Cuffe Parade,
Bombay 400 025
12. Sh. Niranjan Hiranandani
Vice President
Maharashtra Chambers of Housing Industry,
Bombay
13. Sh. Kantilal Underhut
K. G. Underhut, Advocate and Solicitor,
Bombay High Court,
Bombay
14. Sh. S. N. Shroff
Deputy General Manager
H.D.F.C. Ltd., Ramon House,
Backbay Reclamation,
Bombay 400 020
15. Sh. Mahabaleshwar Morje
Advocate High Court & Notary Counsel for
State of Maharashtra and Union of India,
Chambers: 3rd Floor, Above Machine Tools,
23, A. D. Marg, (Hanuman Street),
Opp. Stock Exchange Post Office, Fort,
Bombay 400 023

16. Sh. H. M. Choudhury,
Deputy Secretary (HQ.Adm.)
Department of Revenue,
Ministry of Finance, Government of India,
New Delhi 110 001
17. Sh. G. N. Talreja,
Inspector General of Registration
Chief Controlling Revenue Authority,
Maharashtra State,
Pune
18. Sh. Raghuvir Samant
Chairman
Mumbai District Co-operative Housing Federation, Vikas,
11, G. N.Vaidya Road, Fort,
Bombay 400 020
19. Sh. K. C. Chheda
Advocate
Mayfair Building, Veer Nariman Road,
Bombay 400 020
20. Sh. Venkat Chary
Secretary
Department of Finance,
Government of Maharashtra, Mantralaya,
Bombay 400 032

INSTRUMENTS UNDER INDIAN STAMP ACT
(with ad valorem rates)

ARTICLE NO.	DESCRIPTION
13	BILL OF EXCHANGE
27	DEBENTURES
47	POLICY OF INSURANCE
49	PRONOTE PAYABLE OTHERWISE THAN ON DEMAND
62	TRANSFER OF SHARES

INSTRUMENTS UNDER INDIAN STAMP ACT
(with fixed rates)

ARTICLE NO.	DESCRIPTION
14	BILL OF LADING
37	LETTER OF CREDIT
49	PRONOTE PAYABLE ON DEMAND
52	PROXY
53	RECEIPT

STATE INSTRUMENTS
(ad valorem rates)

ARTICLE NO.	DESCRIPTION
5	AGREEMENT
6	DEPOSIT OF TITLE
10	ARTICLE OF ASSOCIATION
13	BOND
14	BOTTOMARY BOND
16	CERTIFICATE OF SALE
17	CERTIFICATE (ISSUE OF SHARE)
19 to 23	CLEARANCE LIST OF VARIOUS KINDS
25	CONVEYANCE
32	EXCHANGE OF PROPERTY
33	FURTHER CHARGE
34	GIFT
36	LEASE
	(a) movable lease
	(b) immovable lease
40	MORTGAGE
	(a) possession given
	(b) possession not given
643	NOTE OR MEMORANDUM ISSUED BY BROKER
45	ORDER FOR PAYMENT OF MONEY
46	PARTITION
47	PARTNERSHIP DEED
48	POWER OF ATTORNEY
	(a) given for consideration
	(b) given to Developer
53	RESPONDENTIA BOND
54	SECURITY BOND
55	SETTLEMENT
	(a) for religious or charitable purpose
	(b) any other case
56	SHARE WARRANTS
57	TRANSFER OF DEBENTURES
60	TRANSFER OF LEASE
61	TRUST (WITH DISPOSITION OF PROPERTY)
	(a) religious/charitable
	(b) any other case
	(with no disposition of property)

STATE INSTRUMENTS
(specific rates)

ARTICLE NO.	DESCRIPTION
1	ACKNOWLEDGEMENT (a) of debt (b) by courier
2	ADMINISTRATION BOND
3	ADOPTION DEED
4	AFFIDAVIT
7	APPOINTMENT IN EXECUTION OF A POWER (a) of Trustees (b) of property
8	APPRAISEMENT OR VALUATION
9	APPRENTICESHIP DEED
11	ARTICLE OF CLERKSHIP
12	AWARD
15	CANCELLATION
18	CHARTER PARTY
24	COMPOSITION DEED
26	COPY OR EXTRACT
27	COUNTERPART OR DUPLICATE
28	CUSTOMS BOND OR EXCISE BOND
29	DELIVERY ORDER
30	DIVORCE
31	ENTRY OR MEMORANDUM OF MARRIAGE
35	INDEMNITY BOND
37	LETTER OF ALLOTMENT OF SHARES
38	LETTER OF LICENCE
41	MORTGAGE OF A CROP
42	NOTORIAL ACT
44	NOTE OF PROTEST BY THE MASTER OF A SHIP
48	POWER OF ATTORNEY (NOT RELATED TO SALE OF IMMOVABLE PROPERTY)
49	PROTEST OF BILL OR NOTE
50	PROTEST BY THE MASTER OF A SHIP
51	RECONVEYANCE OF A MORTGAGED PROPERTY
52	RELEASE
57	SHIPPING ORDER
58	SURRENDER OF LEASE
62	WARRANT FOR GOODS

STAMP DUTY REFORM IN THE U.K. AND AUSTRALIA

In some of the advanced countries, such as the UK and Australia, there has been radical reform of the Stamp Act and its implementation. In UK, since it was found that most of the revenue comes from transfer of land and houses, sale of stocks and shares, insurance policies, issue of shares and leases, the reforms of 1985 removed over 40 per cent of the documents requiring stamping, i.e., out of the purview of the Stamp Act. And where duty is to be paid, it is paid only by impression on the documents and no stamps are used. Conveyance on transfer or sale of property valued at over £ 60,000 carries a duty of one per cent. Conveyance on property valued below that level, and some types of conveyance such as transfer of property upon divorce or by liquidation of a company or voluntary dispositions are exempt from duty. The transfer of stocks and shares is subject to duty at 0.5 per cent. One could say that the stamp duty in the UK is now collected mainly on the conveyancing of property and the transfer of shares and stock. The Government of UK would like to abolish the stamp duty on the sale of stocks and shares because of the practical difficulties in effecting calculations and collections of stamp duty, on transactions in stock and shares which are now-a-days conducted through computers and no documents are used. However, the abolition of stamp duty on these instruments is expected to come into effect only from the date on which the new system of computerisation and scripless trade comes into force.

Australia is a federal country like India and has had to face problems arising from the existence of different rates of stamp duty levied by the various States. Also, each State sought to develop a stamp duty regime which was designed to maximise revenue accruing to it by ensuring that transactions entered into by persons carrying on business in a State did not avoid paying stamp duty in that State. The exemptions also differed across the States.

In the light of the problems created to trade and industry, by the above-mentioned practices, the Federal Government and the States have recognised the need for stamp duty harmonisation. The approach to the desired uniform framework envisages:

- (i) a single liability to stamp duty to be discharged to one particular State;
- (ii) uniform Stamp Acts and uniform rates;
- (iii) if the subject of a transaction is located in more than one jurisdiction, then the duty would be imposed by a particular jurisdiction only to the extent that the property is located therein; and
- (iv) given the global trend for the removal of government imposts on transactions in securities, all the States would in course of time abolish duty on such transactions; meanwhile the practice of brokers paying duty on share transfers would continue.

The rates of duty on some important instruments in the Australian States are as follows:

Leases of property	-	0.35 per cent of the total rent payable, but conveyance rates on the value of the premium.
Conveyances	-	1.25 per cent to 5 per cent according to slabs.
Mortgages	-	0.30 per cent

Stamp duty can be paid for each instrument, or by way of monthly return by approved persons in business.

STAMP DUTY RATES IN DIFFERENT STATES

Andhra Pradesh	
Upto Rs 2 lakh	: Rs 12,000
Rs 2 lakh-upto Rs 3.5 lakh	: Rs 12,000+4% on value above Rs 2 lakh
Rs 3.5 lakh-upto Rs 7 lakh	: Rs 18,000+6% on value above Rs 3.5 lakh
Above Rs 7 lakh	: Rs 39,000+8% on value above Rs 7 lakh
Delhi	: 12%
Gujarat	: 14% for land, for flats 10%
Haryana	: 12.5%
Karnataka	: 13.5%+2% registration
Kerala	: 13.5%+2%
Maharashtra	
Upto Rs 1 lakh	: Rs 100
Rs 1 lakh-upto Rs 2.5 lakh	: Rs 1,000+1% on value above Rs 1 lakh
Rs 2.5 lakh-upto Rs 5 lakh	: Rs 2,500+4% on value above Rs 2.5 lakh
Rs 5 lakh-upto Rs 7.5 lakh	: Rs 12,500+6% on value above Rs 2.5 lakh
Rs 7.5 lakh-upto Rs 10 lakh	: Rs 27,500+8% on value above Rs 7.5 lakh
Above Rs 10 lakh	: Rs 47,500+10% on value above Rs 10 lakh
Tamil Nadu	: 13%
West Bengal	: 7%
Calcutta	: 5%

Source : Business Standard August 22, 1996

Minutes of the meeting of the" Committee of State Finance Ministers on Stamp Duty Reform" held on 22 June, 1996 at 11.00 a.m. at NIPFP Conference room. (List of the participants enclosed).

The meeting started with the welcome remarks by Prof. Raja J. Chelliah, Convenor of the Committee. He informed the Committee that this meeting was delayed because the officials and ministers of various States were busy earlier with elections and then with budget preparations.

As per the agenda item II, for the election of the Chairman of the Committee, Prof. Chelliah proposed the name of Col. Ajay Mushran, Finance Minister, Government of Madhya Pradesh. The proposal was seconded by Mr. D. Gangopadhyay.

Mr. Mushran, the elected Chairman, mentioned in his brief speech that the suggestions given by Prof. Chelliah in the 'List of Suggestions' were quite agreeable. He further stated that the final agreement can be arrived at after the presentation of individual State's views and the discussion amongst the members.

Prof. Chelliah briefly introduced the subject of Stamp Duty Reform. He emphasised the following points: (a) more moderate rates; (b) greater uniformity of rates; (c) proper valuation; (d) simplification of procedures for effective administration. While discussing these issues he pointed out that there should be minimum cost escalation. He also mentioned that India had adopted the system of levy of stamp duty in 1860 on the British pattern. Now in England no stamps are used, whereas the use of stamp is still continuing in India with lots of procedural complications. In the present context of economic reforms there is urgent need of Stamp Duty Reform. In his introduction he also touched upon the issues of proper valuation, gradual reductions of rates, non-availability of stamps, mode of payment, place of registration and registration fee etc.

After the brief introduction by Prof. Chelliah, the Chairman invited the views of individual state on the subject.

Assam - Since the Minister was preoccupied with some urgent assignment, the Resident Commissioner, Mr. A. P. Singh represented the State. Mr. Singh appreciated the initiative taken for the Stamp Duty Reform. While agreeing with most of the suggestions given by Prof. Chelliah he pointed out that the revenue position of the State should be kept in view and it should not deteriorate after the reforms.

Mr. Upendra Prasad Varma, the Finance Minister, Government of Bihar, thanked the Convenor for taking the initiatives for Stamp Duty Reform and calling the meeting. In his speech he mentioned some of the reservations for not agreeing completely with the issue like reduction of the rates of stamp duty and registration fee. The State agreed partially with the idea of recovering the deficient portion of stamp duty, but felt that there should be provision for impounding the documents which are misclassified. He was more concerned about the revenue aspects of the stamp duty. The State agreed with most of the other suggestions including the setting up of the Central Valuation Board/ Cell.

Prof. Jagdish Mukhi, Finance Minister of the National Capital Territory (NCT) of Delhi, presented his State's views. In his speech he mentioned that the NCT of Delhi agreed with most of the suggestions made by Prof. Chelliah. He particularly emphasised the issue of Power of Attorney (POA) and desired some concrete solution to the problem of avoidance of duty through POA faced by Delhi.

There were no representative from the State of Kerala. However, the Finance Minister of Kerala, Shri T. Shivadasa Menon had written to Prof. Chelliah that the State agreed with all the suggestions sent to him except reduction in the rates.

Col. Ajay Mushran, Finance Minister, Government of Madhya Pradesh, presented his State's views on the Stamp Duty Reform. The State agreed with most

of the suggestions made by Prof. Chelliah. He mentioned that the State had to keep in mind that there was no substantial reduction in the overall revenues of the State as a result of the proposed reforms. He agreed to the amendment of the definitions of conveyance in Bombay Stamp Act, which included orders and decrees of courts, orders of High Court regarding amalgamation of companies and air rights in the definition of conveyance.

With regard to Power of Attorney (POA), the State strongly recommended that the rate of stamp duty on the POA should be same as that on conveyance where power of attorneys authorises the agent to sell immovable properties and is given outside the family of principal. (However, it does not appear very sound legally to define all power of attorney given to people outside the family as conveyance. This matter must be examined).

The State also agreed to the proposal of greater uniformity of rates for the State instruments across all the States and to have moderate rates with proper valuation. Col. Mushran had some reservations about lowering the rates. He was of the view that uniform flat rate of stamp duty on conveyance should not be less than 10 per cent of the market value. He further mentioned that the State was opposed to the graduated stamp duty as in Maharashtra. The State government did not support the view of fixing the stamp duty of Rs 2/- for Promissory notes of any period. Attention was also drawn to the Central government's recent notification exempting Promissory notes and Bill of Exchanges for a period upto three months. He suggested that a uniform rate of 0.5 per cent on all bills or notes be adopted.

The State supported the other suggestions like use of franking machines or payment through challans or bank drafts, common inscription on stamps, creation of Central Valuation Cell, doing away with NOCs or clearances under other Acts. It also agreed with the rates of duty on other instruments in the State and Central list.

Shri R. C. Iyer, Principal Secretary (Revenue), Government of Maharashtra, presented his State's views. The State agreed to all the suggestions made by Prof. Chelliah. Mr. Iyer also mentioned that some other specific suggestions would be sent to Prof. Chelliah after the presentation of the budget in the State.

Shri Anag Kumar Jain, State Finance Minister, Government of Rajasthan presented the State's views on Stamp Duty Reform. Mr Jain mentioned in his speech that his State agreed that all States should concentrate on steps to rationalise the present provisions and procedures involved in the administration of the Stamp Act and the Registration Act. He has also suggested that Government of India could consider reducing and standardising the various categories and denominations of stamps so as to streamline procedures and reduce costs.

The proposal regarding uniformity of rates for all Central instruments is desirable. As far as State instruments are concerned, there is a need to reach consensus on rates amongst all the States. As regards sick companies, the State had already exempted such companies from stamp duty.

With regard to the rate of duty on conveyance, Rajasthan has a flat rate of 10 per cent on all properties irrespective of value. For uniformity in the rates a general consensus of all the States is required. The State agreed to the procedural uniformity across the States.

With regard to valuation, in Rajasthan, there is a system of determination of valuation of all kinds of properties- urban and rural including buildings. District level committees under the chairmanship of district collector, with elected representatives as members meet periodically and determine such market value. For transparency, the basis of valuation of buildings is published and made available to the general public.

The State had some reservations in doing away with NOCs. The Minister mentioned that since the State had a long international border, it at times became necessary to closely scrutinise the identities of the registering parties before the documents are registered.

With regard to simplification and rationalisation of procedures and regulations, the State agreed to the evolving of uniform and simple administrative measures to avoid harassment to the general public. In this direction the State had already initiated many wide ranging reforms.

The additional suggestions proposed by the State were as follows:
(a) penal provision for failing to get immovable property registered, (b) 8 months limit for registration of documents should be done away with, (c) a provision must be made in the Act for uniformity of records throughout the country, (d) for preservation of

records a scientific system should be introduced, (e) provision for impounding in the case of intentionally under-valued properties, (f) the State government may be allowed to print their own stamps, and (g) the State governments must be given power to amend the Stamp Act with out Presidential consent.

Shri I. Periasamy, State Minister of Registration, Tamil Nadu presented his State's views. The State agreed that the definition of conveyance should be extended. On the issue of uniform and moderate stamp duty the State was of the view that an approach based on the consensus amongst all States would be useful. For valuation, in Tamil Nadu, there was Valuation Cell consisting of departmental members. It was pointed out that without altering the rate of stamp duty, the effective valuation would lead to a substantial increase in revenue.

The requirement of NOCs under the Urban Land Ceiling Act had already been dispensed with in Tamil Nadu.

The Minister said, further consideration would be given to the aspects like rate of duty and the method of stamping, after arriving at a consensus on all of suggestions offered by the committee.

Mr. V. K. Dewan, Principal Secretary, Government of Uttar Pradesh, presented his State's views. The State was in agreement with most of the suggestions made by Prof. Chelliah. The ideas of greater uniformity, more moderate rates, creation of Central Valuation Cell for proper valuation, and simplification of procedures were welcomed by the State.

Mr Dewan has also made some specific suggestions: court sales should be taken as conveyance; rates should be flat and low; there should be capping on registration fee. With respect to non-availability of stamps, in addition to other measures he recommended that the States should be allowed to print stamp duty (at least of low denominations) at the State security press. He agreed that the printing of stamp can be further simplified by reducing the number of denominations of stamps. (only Rs 10, Rs 20 and Rs 100 and the denomination of Rs 5 and Rs 50 can be removed). In the case of Uttar Pradesh, only instruments are taxed, not transactions. He was of the opinion that the transactions should also be brought within the purview of stamp duty (in UK every transactions is subject to stamp duty).

Shri D. Gangopadhyay, Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal, presented his State's views. He informed the Committee that in his State the rate of stamp duty on conveyance was 10 per cent uniformly. The Finance Minister has recently declared in the House that the Government would reduce the duty to 5 per cent.

He supported the idea of creation of a Central Valuation Cell and strongly urged that it should be set up urgently and that it could be extended to the district level also.

The Convenor informed the Committee that he had already invited Bihar as a co-opted member. He suggested that the States of Gujarat and Karnataka could also be co-opted as members of the Committee, as permitted by the government Notification. The Committee unanimously agreed to the co-option of all the three above mentioned States.

In his concluding remarks the Chairman pointed out that most of the points given in the "List of Suggestions" by Prof. Chelliah had been agreed to. The points not agreed to, can be discussed individually. Then all the States can uniformly agree to all the points in the final report.

At the end the Convenor explained that due to elections this meeting could not be called earlier. According to original notification the life of the Committee was upto 30th June; the life had to be extended. After some discussion, the members of the Committee decided to request the Government of India to extend the term of the Committee upto end of the September 1996.

The meeting terminated with the thanks to all the participants who attended the meeting. The next meeting of the senior officials was tentatively fixed to be held by the end of July and the meeting of the States Finance Ministers some time in August, 1996.

List of Participants who attended the meeting of "Committee of State Finance Ministers on Stamp Duty Reform", held on June 22, 1996 at 11.00 a.m.

Sl. No.	Name	Designation
1.	Shri A. P. Singh	Resident Commissioner, Assam
2.	Shri Upendra Prasad Varma	Finance Minister (Commercial Taxes), Bihar
3.	Prof. Jagdish Mukhi,	Finance Minister, Delhi
4.	Shri D. P. Dwivedi	Dy. Secretary (Finance), Delhi
5.	Shri Narendra Kumar	Joint Secretary (Finance), Delhi
6.	Shri G. S. Patnaik	Secretary (Revenue), Delhi
7.	Shri A. K. Garg	Collector of Stamps, Delhi
8.	Shri Sham Chand	Sub-Registrar Delhi
9.	Col. Ajay Mushran	Finance Minister, Madhya Pradesh
10.	Shri A. K. Agarwal	Principal Secretary (Finance), Madhya Pradesh
11.	Shri D. Singhai	Inspector General Registration, Madhya Pradesh
12.	Shri R. C. Iyer	Principal Secretary (Revenue), Maharashtra
13.	Shri Anang Kumar Jain	State Finance Minister, Rajasthan
14.	Shri B. L. Arya	Dy. Secretary Finance (Tax), Rajasthan
15.	Shri I. Periasamy	State Minister for Registration, Tamil Nadu

Sl. No.	Name	Designation
16.	Shri S. Kosalaraman	Additional I.G. of Registration, Tamil Nadu
17.	Shri V. K. Dewan	Principal Secretary (Institutional Finance), Uttar Pradesh
18.	Shri I. K. Pande	Secretary Finance, Uttar Pradesh
19.	Shri S. N. Srivastava	O.S.D. (Institutional Finance), Uttar Pradesh
20.	Shri D. Gangopadhyay	Inspector General of Registration & Commissioner of Stamp Revenue, West Bengal