

APPENDIX - III

Sachar Committee recommendation in respect of Section

11 :-

(1) In section 11, a new sub-section, viz sub-section.(3) should be added to read as follows :-

(a) Nobody corporate incorporated outside India shall be allowed to establish or operate any place of business in India for the purpose of engaging in agriculture including plantation, production, processing, manufacturing or mining activities or for the distribution of goods produced in India or for generation of electricity or power of any kind or in construction activities, unless it is registered as a company under this Act;

b) No body corporate incorporated outside India of which not less than fifty per cent of the paid up share capital (whether equity or preference, or partly equity or partly preference) is held by one or more citizens of India or by one or more bodies corporate incorporated in India, or by one or more citizens of India and one or more bodies corporate incorporated in India, whether singly or in the aggregate, shall be allowed to establish or operate a place of business in India unless it is registered as a company under this !

(2) Sub-section (3), (4) and (5) of section 11 may be redrafted as section (4), (5) and (6) respectively.

- (3) Sub-section (2) of section 591 may be deleted.
- (4) All existing foreign companies which fall within sub-section (3) of section 11 must register themselves under the new Act within a period of six months from the commencement thereof.
- (5) The provisions relating to foreign companies should be streamlined to remove the existing obscurities on the lines indicated above and should then be made applicable to the existing foreign companies which do not fall within any of the categories mentioned in sub-section (3) of section 11. For example, the provisions contained in sections 603 to 608 dealing with prospectus issued by foreign companies may be deleted and suitable provisions made in section 600 including the prospectus provisions contained in Part III of the Act. In future, foreign companies should be exempted from registration as a company under the Act only if they do not fall within those categories. However, it is our recommendation that the provisions of Clauses (c), (e) and (f) of section 433 should be made applicable to foreign companies and all the provisions relating to winding up of companies following the applicability of those clauses of section 433, shall apply to foreign companies.