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Winding Up of State Enterprises in India: A Case Study of Five Enterprises Under the Department of Heavy Industry

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Authors' Note

The case study sets out our experiences while implementing the policy of closure of public enterprises in the Government of India. The facts presented are a matter of record. The views expressed are personal.

Preface

Why is it so easy to create a public sector enterprise but so difficult to wind one up, even when precious resources of the state with huge opportunity costs are regularly appropriated for entities that no longer serve any public purpose?

Usually, it is due to a lack of political will arising out of a perhaps overblown fear of consequences of taking what are perceived to be “harsh” steps. It is also often due to an abundance of caution in the bureaucracy that has to implement these steps. There are reasons for this reluctance. Bureaucracy has learned from previous attempts at winding up state enterprises that such exercises tend to ruffle vested interests, attract political and judicial ire, and sometimes invite the unwelcome attention of investigative agencies.

Closing down state enterprises has always been notoriously difficult. It requires the rare circumstance of all the stakeholders being in alignment with the objective at the same time for progress to be made.

A great opportunity for overcoming these difficulties arose in 2014, when there was a rare and favorable confluence of circumstances and people in government, notably at the political level and in the Department of Heavy Industry (DHI), Government of India. A new government had assumed power with a reforming zeal, as new governments often have. In the department, we (Sunil Bahri as the financial adviser and Rajan Katoch as the secretary of the department) happened to be thrown together as a new leadership team. Both students of economics, we understood the administrative and economic rationale for closure of sick enterprises and appreciated the opportunity for us to make a signal contribution to better governance and public welfare. We intended to make all-out efforts to ensure that the opportunity was grasped and a sustainable outcome achieved within the brief tenure of two years that we had with the department.

This is the story of those efforts.

Central Public Sector Enterprises: Post-Independence Growth

Let us begin at the very beginning. The first state enterprises set up in India were the Central Public Sector Enterprises (CPSEs) established shortly after India attained independence in 1947.[1] The very first was Indian Telephone Industries, a state telephone manufacturer set up in 1948. India was then just emerging from debilitating colonial rule and was a rural, underdeveloped economy. The early decisionmakers felt that rapid economic development was needed to improve living standards. Influenced by a socialist-leaning ideology, they felt that central economic planning and a policy emphasizing industrialization and import substitution were the way to go.

However, there was limited capacity and capital available in the private sector to establish new industry. Further, in 1950–1951, gross fixed capital formation was only 11.4 percent of GDP in India.[2] This led to the broad belief that establishment of state enterprises was needed to lead industrialization in the country. State enterprises would help build the industrial base, which in turn would spark growth in the economy. At the same time, state enterprises and CPSEs in particular were assigned a larger social role. They were expected to be model employers, bring about regional balance (by the virtue of being located in the socioeconomically backward regions of the country), generate employment, and contribute to public welfare.

The focus on CPSEs was further sharpened with the theoretical foundation of the Mahalanobis model propounded in the Second Five-Year Plan, which brought into the policy discourse the term "commanding heights" of the economy.[3] This plan prioritized investment in capital goods, or the machines that make machines. Production of capital goods would enable the buildup of domestic capacity for manufacturing and eventually for consumer goods. The theoretical model underpinning the plan postulated that as a result, the pace of industrialization would accelerate, economic growth would step up, and the consequent trickle-down effects would spread and alleviate poverty. Consequently, a number of CPSEs in the areas of heavy industry and engineering goods were established. Public sector industrial development in this early phase was in core industries like mining, metals, steel, energy, and telecom.

Over the next few decades, the policy gathered steam. In other parts of the world, countries were experimenting successfully with more market-oriented and less state industry–reliant growth strategies. However, in India, the number of CPSEs kept growing over the decades, expanding into new areas.[4] The trend of expansion continued partly because of the setting up of new greenfield state industries and partly because of waves of nationalization.

Industries like coal and banking were fully nationalized. Other major areas in which CPSEs established a strong presence included oil, power, aviation, shipping, textiles, tourism, civil construction, and trading.

From a modest beginning of just five enterprises in 1951, there were as many as 389 CPSEs in existence in 2021–2022, of which 248 were operational. As many as 188 of these CPSEs were profitable, while fifty-nine were loss-making, the total losses of which were INR 14,586.20 crore (around $2 billion).[5]

While many of the profit-making CPSEs continue to be relevant in the current context and contribute to the public exchequer, many others have become less relevant over time.

What happened was that many of the CPSEs achieved the purpose for which they were set up and catalyzed industrial development in their area of operation. A strong industrial base was created, as envisaged by the decisionmakers in the 1950s. A vibrant private sector arose in the same areas of operation as the initial CPSEs, albeit with more modern technology and higher levels of efficiency. For example, the trailblazer CPSE for machine tools, Hindustan Machine Tools (HMT), sparked the growth of the indigenous machine tool industry around Bengaluru.

Consequently, many CPSEs outlived their utility and started making losses. Some even became totally unviable and ceased production. However, the prevailing socialist-oriented and pro-public sector policy mindset did not allow closure or disinvestment of these enterprises. Instead, repeated efforts were made to restructure and revive them by infusing fresh capital.

Liberalization and the New Policy Discourse

Mainly spurred by major external shocks at the turn of the 1990s, India changed course somewhat and implemented structural, market-oriented economic reforms from 1991 that created a wave of liberalization in industrial and trade policies. Only then did disinvestment, privatization, and closure of CPSEs come into the policy discourse.

The broad thinking as it evolved was as follows. State enterprises considered to be of strategic importance and those that were viable and profit-making were to be continued and strengthened. For them, mechanisms for devolving greater autonomy in decisionmaking at the enterprise level were put in place. For the others, various forms of disinvestment were to be considered, depending on the circumstances. These forms of disinvestment included outright privatization, sale of minority shares, and closure of the enterprises. It was felt at the time that the closure of a state enterprise should be considered when the enterprise was found to:

- have outlived its purpose,
- have become noncompetitive because of changed market environment,
- be chronically in losses,
- have ceased production,
- and/or require budgetary support just to exist and pay salaries.

However, the political ecosystem remained highly sensitive to any proposals for the closure of a CPSE. Part of the reason was ideological, resting on the deeply ingrained notion of CPSEs being "good" and the private sector "bad." Regional and local interests felt that it would be a setback for them if a CPSE located in their area were to close down. The location of the CPSE very often was a matter of prestige. In keeping with the early policies aiming for balanced regional development, many CPSEs were located in relatively socioeconomically disadvantaged areas. Many felt that even sick CPSEs had a welfare role and workers' jobs should be protected. There was apprehension regarding alienation of the lands held by CPSEs, which over time had become prime urban property. Decisionmakers were therefore reluctant to bite the bullet of closure and preferred to revive sick CPSEs rather than close them down.

As a result, while there was some progress in privatization and stake sale of CPSEs after 1991, not much progress could be made in closures. Attempts that were made got bogged down in litigation and scam allegations. For example, the closure and sale of textile mills via e-auction by the National Textile Corporation became the subject of a criminal investigation over allegations that the land had been sold below market value.[6] The closure of another CPSE, Hindustan Photo Films, was delayed for decades after the cessation of production because of protracted litigation by employees who were going to lose their jobs.[7] So even though the continuance of many CPSEs had become totally unsustainable, public money was being spent every year on keeping them afloat.

Department of Heavy Industry: The Context

In 2014, DHI administered thirty-two public sector enterprises, including a large portfolio of perpetually loss-making CPSEs. In the absence of real will to close down such enterprises, year after year, the department prepared proposals to provide financial support to some of the units to discharge their statutory liabilities and pay their employees' salaries. In many of these cases, no production was happening, but the conventional wisdom was that salaries needed to be paid nevertheless. At regular intervals, attempts were made to revive some of these companies by giving them further budgetary funding for cleaning up balance sheets and sanctioning grants for modernization. Most of these attempts failed miserably.

In our roles at DHI, we could see that the loss-making CPSEs that we were now saddled with were actually a result of the unfinished economic reforms of the 1990s. They had survived prior to 1991 only because of the License Raj, which had created huge barriers to entry, enabling high cost, low productivity, and technological obsolescence. The reforms had sounded their death knell, with many becoming unviable on the withdrawal of protection and others having to cease production.

The most vulnerable sectors were consumer goods (for example, HMT Watches and Scooters India), hospitality (India Tourism Development Corporation, or ITDC), capital goods (HMT Machine Tools, HMT Tractors, and Instrumentation Ltd.), civil aviation (Air India and Indian Airlines), telecom (Bharat Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited). In fact, the only sectors where CPSEs remained viable were those where there were barriers for the private sector. For instance, large initial investments, restrictions on foreign investment, and state regulations allowed units in steel, mining, and defense to continue without challenge.

Over the past twenty-five years, the Indian government has professedly had a policy to encourage disinvestment (that included closure). Prior to 2014, however, this overarching policy had been implemented only halfheartedly, with a few strategic sales of loss-making enterprises and the dilution of shareholding in profit-making enterprises, mostly to generate revenues. Even with a liberal economic philosophy in place, there was a huge gap between the official mindset and the economists' doctrine of "creative destruction."[8] Based on the writings of Joseph Schumpeter, the doctrine posits that in a capitalist economy, inefficient firms collapse, dynamic ones pick up their clients and assets, and capital gets reallocated to the winners, enabling optimal utilization of assets for society. When it came to the sale or closure of public enterprises, the government's mindset had not moved on from the idea that this amounted to the sale of the "family silver."

However, as we went along, we discovered that closure or winding up was an idea whose time had come. It required people invested in the idea and its potential public benefit—releasing resources that had been locked in keeping unproductive assets alive. On the path to implementation, surprisingly, there turned out to be many key stakeholders who lent their support. We found willing allies in other ministries, our department, senior management of CPSEs, and the political executive who actually wanted something to be done about the existing state of affairs and were happy to let DHI lead the way. We were also able to persuade the official machinery in the government and the affected enterprises to go along.

The Situation in 2014: Policy Direction and Precedents

With a new government in place in 2014, a willingness to take bolder action on closure was evinced. The new government presented a delayed Union Budget 2014–2015 in July 2014, which did not specifically chart any course for CPSEs. However, on September 10, 2014, just months after the formation of the government, a proposal (in line with previous such proposals that had been submitted from time to time and approved) was placed by DHI for providing budgetary support to unviable CPSEs to cover their outstanding obligations up to FY 2013–2014 and stay afloat. While approving the requested financial support to the eleven CPSEs proposed for assistance, the cabinet also directed the department to finalize a roadmap within one month for phasing out budgetary support to CPSEs.

Without the oxygen of budgetary support, there was no way these CPSEs could exist. Though it was not explicitly stated, the directive meant that they needed to be wound up. It was up to us to take the intent behind this directive to its logical conclusion in the public interest. This was indeed a big step forward, and we made sure that it was followed up in earnest.

In the past, efforts to deal with the closure of sick companies had taken the form of revival packages formulated in consultation with Board for Industrial and Financial Reconstruction (BIFR) or Board for Reconstruction of Public Sector Enterprises. The aim was to nurse the companies to financial health by cleaning up balance sheets through a mix of writing off government loans and/or conversion to equity, paying off creditors and statutory dues through government support or permission to sell land, and capital infusion for modernization. Some companies had gone into liquidation, and liquidators were appointed, though with notable lack of success due to litigation.

The Union Government had in the past also attempted and, in isolated cases, succeeded in selling off loss-making units (for example, Modern Foods and some hotels belonging to ITDC).[9] Several sick units under the National Textile Corporation Limited were closed and their land sold off to revive some of the others. These were sick private mills that had originally been taken over by the government to protect the interests of the workers. These processes had been time-consuming, and some cases remain entangled in both legal issues and controversies.

Developing the Roadmap

To present a roadmap as directed, we looked closely at the eleven cases that were candidates for winding up. These were Hindustan Cables Ltd., HMT Machine Tools, HMT Watches, HMT Chinar Watches, Nagaland Pulp and Paper Company Ltd., Triveni Structurals Ltd., Tungabhadra Steel Products Ltd. (TSPL), NEPA Ltd., HMT Bearings Ltd., Hindustan Photo Films Ltd., and Tyre Corporation of India Ltd. The names are self-explanatory and describe the products of these companies.

We noted that following the economic reforms and the consequent wave of liberalization, the protective umbrella of barriers to entry (such as industrial licenses, import restrictions and high tariffs, and restrictions on foreign investments and technical collaboration) in these sectors had disappeared. These CPSEs in particular had not really thrived under the umbrella, but its disappearance had become an existential threat to them. Poor management, lack of incentives to innovate or take risks, apathetic decisionmaking, government interference, high overheads, and overstaffing with job security compounded the desperate situation. All these units were good candidates to be closed.

However, we did not propose the closure of all the eleven units identified as being in need of financial support from the budget. There were several considerations for this decision. Negotiations had to be carried out with stakeholders regarding company management, creditors, employees, trade unions, and so on. These would require intense higher-level (secretary and additional secretary & financial advisor) guidance and close monitoring to push forward. Initiating closures for all eleven companies simultaneously would have stretched our limited bandwidth. It was important to carry the entire government ecosystem with us and make them invested in the initiative. A setback in any of the companies due either to a failure of negotiations or to legal complications could disturb the momentum and weaken our credibility.

However, the number had to be significant enough to create an impact. We excluded from the first round of closures companies where a revival package was under implementation (NEPA Ltd., HMT Machine Tools, and Nagaland Paper & Pulp Company) and companies that were already under liquidation (Triveni Structurals) or approved for closure but stuck in litigation (Hindustan Photo Films). In the case of the former, while we were convinced that most efforts at revival had only been deferring the company's ultimate demise, we did not want to prejudge the outcomes of packages approved by the cabinet.

This left five companies, of which three had been spun off from the parent company HMT, which was a pioneer in the establishment of the machine tool industry in India—HMT Bearings, HMT Watches, and HMT Chinar Watches—all unviable. The other two found suitable were Tungabhadra Steel and Hindustan Cables. In both cases, the original reason for existence had long since disappeared. Efforts to find a private partner for Tungabhadra Steel had been made starting in 2006 but had yielded no results. BIFR had completely ruled out any possibility for the revival of Hindustan Cables. These companies were qualified for closure.

There were many other companies whose financial viability was tenuous, such as Instrumentation Ltd, Tractors Division of HMT, Scooters India, Tyre Corporation of India, Cement Corporation of India, and Richardson and Cruddas. Now, we had them in our sights. Eventually, they would all need to be closed, but not just yet.

The focus was on the five companies identified in table 1. A roadmap for the winding up of each of these companies was prepared in coordination with the management of the concerned CPSE. Estimates of the one-time budgetary expenditure were put together. This roadmap was circulated among the stakeholder departments of the government and their views taken on board. Finally, we obtained specific government approvals for closing down each of the five companies. These decisions backed up the initial broad directive of September 2014 and reinforced the expression of political support for the initiative.

A snapshot of these enterprises is given in the table below.

Table 1: Details of the Five CPSEs Identified for Closure

Name of Company	Year of Establishment	Product	Number of Employees	Department of Public Enterprises Pay Scale	Net Worth 2013–2014	Net Profit/ Loss (-) in Lakhs[10]
HMT Bearings, Ltd.	1964	Ball bearings	62	1992	Negative	-1598
HMT Watches Ltd.	1961	Watches	1055	1992	Negative	-24248
HMT Chinar Watches Ltd.	1971	Watches	34	1992	Negative	-5116
Tungabhadra Steel Products Ltd.	1948	Gates and spill-ways for the Tungabhadra Dam	84	1992	Negative	-3191
Hindustan Cables Ltd.	1952	Telecom cables	1709	1997	Negative	-88505

In each of these cases, the products of the enterprise had either not kept up with changing times or become irrelevant. For example, HMT Watches once had a near monopoly on watch production in India, and its watches were highly sought after. Post-liberalization, more modern and attractive watches started to be produced in the private sector, slowly reducing the market for HMT Watches. Similarly, ball bearings became readily available more competitively in the private sector, rendering HMT Bearings virtually defunct. TSPL had been set up to provide equipment for the construction of the Tungabhadra Dam in the

1950s, a purpose that had long since been fulfilled. TSPL's operations were at a standstill. The telecom cables used in fixed line telephony had become obsolete with the shift to wireless technology, and Hindustan Cables Ltd. found itself producing items that no one wanted anymore. HCL ceased production, but continued to exist and pay its employees.

In some of these cases, there were also management issues. Often, it is an inability to respond quickly to changing circumstances that is responsible for the decline in relevance. In all the cases, the net worth of the companies had been totally eroded and was negative. Because of institutional constraints, they could not change course easily nor could a timely decision on winding up be taken, leading to these enterprises becoming a recurring financial burden on the owner—i.e., the exchequer.

The first two boxes for moving ahead on the road to closure had been ticked off. There was political will, formally expressed in a cabinet decision, and the bureaucracy was fully on board to push the initiative. However, the tough part was yet to come: Since the past efforts at closure had failed, how was it to be done successfully now?

Institutional Constraints: Challenges and Solutions

With our long years of understanding of the system, we focused on identifying and finding solutions to the institutional constraints that could potentially derail the process. These solutions were essential for effecting the closure.

Employees and Unions

The first key institutional constraint that was addressed was the potential resistance from employees and their unions. An inevitable fallout of closure is the letting go of employees, which is always a sensitive human issue. In most of the enterprises, no actual production was taking place and most of the employees were getting paid anyhow.

Past efforts had often been derailed by the reluctance of employees to sever ties with their company, particularly because of a sense that the financial incentives for doing so were inadequate. Coming from a welfare state ethos, managements were also less than enthusiastic in implementing steps for the separation of employees. Government efforts to force the pace usually ended up in protracted litigation. An example is the case of Hindustan Photo Films under DHI, which was first declared bankrupt in 1996, but in the face of fierce resistance by a section of the employees, could finally be closed after lengthy litigation only in 2018.

Fresh thinking was needed in structuring an employee-friendly settlement. Learning from past experience, we were clear that employees had to be treated fairly and generously and in a manner that would not lead to litigation. Accordingly, it was proposed that the identified CPSEs would be closed under the provisions of the Industrial Disputes Act of 1947, under which the employer can close a unit after giving sixty days' notice to the government stating clearly the reasons for the intended closure of the undertaking.[11]

Simultaneously, all the employees of these five CPSEs would be offered an attractive voluntary retirement scheme (VRS) calculated at notional 2007 CPSE pay scales instead of the current pay scales prevalent in the CPSE.

The pay scale proposal was crucial to the initiative. The Government of India determines CPSE pay scales. Common pay scales are set for all CPSEs, and these are revised every five years. The common CPSE pay scales are known by their year of revision (1992, 1997, 2002, 2007, and so on). If the financial health of the CPSE does not permit it to bear the additional burden of revision from its own resources, the CPSE cannot revise the existing scale and continues to implement the one it has been using. The pay scales of these loss-making CPSEs were from 1992 and 1997—substantially lower than the 2007 pay scales.

Normally, when a VRS is offered, it is linked to the actual pay being received by the employee. The significance of the 2007 CPSE pay scales in this package was that for the first time, the VRS offer was delinked from the actual pay and made more generous. This was a departure from the existing guidelines of the Department of Public Enterprises, which did not provide for determination of the VRS on the basis of notional pay scales.

The new strategy provided for the calculation of a separation package for the VRS on the basis of the 2007 CPSE pay scales. The severance package was thus calculated on the basis of a higher notional scale than the pay actually being received by the employees of these CPSEs. While this would mean a higher one-time outgo from the public exchequer, it would be well worth it if it resulted in stemming the continuous drain on budgetary resources and satisfying the employees.

Along with the VRS, the roadmap required the invoking of the Industrial Disputes Act of 1947. This permits the employer to announce the closure of the enterprise and seek approval from the Government of India's Ministry of Labour and Employment to implement closure in ninety days. This put in place a supporting incentive structure so that incomplete acceptance of the VRS by a few holdout employees did not indefinitely hold up the closure process. Once the deadline for the VRS was reached, any remaining employees who did not opt for the generous scheme would necessarily have to be retrenched by law. The retrenchment package was obviously less generous than the VRS at enhanced pay scales.

In the cases of the five identified CPSEs, employee unions (with the exception of the Raniganj unit of HMT Watches) generally welcomed the package. In the face of imminent closure of the unit, unions appreciated that what was being offered represented a very fair deal. Accordingly, many of the recognized unions actually urged the DHI to implement the package quickly.

Land and Fixed Assets

We identified the framing of an appropriate strategy for disposal of land as perhaps the most important institutional issue to be addressed. One of the collateral impacts, possibly intended, of huge investment in the public sector in the second and third Five-Year Plans was its contribution to urbanization. Large tracts of land were made available to the companies not merely for their production facilities but also for the creation of housing, health, education, and leisure infrastructure for their employees.

The land holdings of the five units, as indicated at the time by the units, were as follows.

1. HMT Watches: 301.28 acres in total, of which 89.71 were in Bangalore, 119.26 in Tumkur, and 92.31 in Ranibagh.

2. HMT Chinar Watches: 62 acres in Srinagar.

3. HMT Bearings: 30 acres in Hyderabad.

4. Hindustan Cables: 1326 acres in total, of which 948 were in Rupnarainpur, West Bengal, 324 in Hyderabad, 53 in Naini, Allahabad, and 2 in Narendrapur, Kolkata. This included 2771 housing units. In addition, there were eleven residential flats in Kolkata and Allahabad.

5. TSPL: 82.37 acres in Hospet, Karnataka.

The initial growth of many cities beyond the obvious steel cities can be traced to the CPSEs established there. For instance, Heavy Engineering Corporation has been at the core of Ranchi's urban development. Over time, these cities grew. As the share of services in GDP expanded, they attracted job and education seekers from villages and smaller towns as well as from the big towns of states lagging behind in development. After the economic reforms in the 1990s, several of these enterprises that had large land parcels, now located in the centers of these cities ceased to be engines of growth. Instead, they were turning into graveyards of economic activity. Their infrastructure collapsed, the number of employees shrank, and facilities were lying idle or underutilized. While agricultural land around cities was being gobbled up, CPSEs continued as islands of inefficient land use. Scarcity of land was not merely creating land price bubbles but also starving cities of essential services like health, education, sports, and public green spaces, among others.

To us, the benefit of the closure of loss-making CPSEs was not merely the savings in salary support but also the creation of a pathway through which the land of such CPSEs could be released for alternate social and economic use. Cities are in dire need of more land for public purposes, and our strategy was formulated to ensure speedy and optimum release of urban land.

After a thorough scrutiny of their respective land records, it emerged that a total of almost 1800 acres of mostly urban land in places such as Bangalore, Hyderabad, Prayagraj, Tumkur, Srinagar, Ranibagh, and Burdwan would be released in the process of this closure for alternate socioeconomic use.

Many options for disposal of the land were weighed. The obvious one was to auction the land to the highest bidder, realizing revenues for the government. This had been done in the past. In our view, apart from the broad rationale, the following practical considerations weighed against attempting monetization of the land from these CPSEs.

1. The creditors of the CPSEs would have a stake in the land assets if monetized. In many cases, the land assets were the underlying security for the companies' loans. The banks agreed to waive interest, almost 80 percent of outstanding debts, because we told them that there would be no sale of land—it would go back to the government for allotment to government entities or autonomous bodies.

2. In most cases, the CPSEs did not have clear land titles, and sale would have required the respective state governments' consent. There could also have been potential litigation depending on how and for what purpose the land was acquired originally.

3. If land were to be monetized, the Ministry of Finance could have insisted on employee compensation and bank and statutory dues being settled from those proceeds and not funded through the budget. The process of closure would have gone on forever without any certainty on the outcome.

Another important institutional constraint that we identified from past experience was that of the process of disposal of land assets of the enterprise to be closed. The reality in the bureaucratic system was that senior officers were extremely reluctant to get into the decision making on disposal of land to private parties. At the time, neither the legal framework for land disposal nor the experience of its actual application was supportive.

The early CPSEs were usually located in tracts of land that, over the years, became prime urban property. No matter how transparently land assets were disposed of, their post-disposal value tended to shoot up. Quite often, this was due to normal escalation in prices of land in prime areas shifting from unproductive to productive use. When this happened and there was a complaint, the concerned officer became vulnerable to the charge of criminal misconduct under the Prevention of Corruption Act. Under the act, as it then stood, a public servant was said to have committed the offense of criminal misconduct if they "obtain[ed] for any person any valuable thing or pecuniary advantage without any public interest."[12]

Notably, it was not necessary under this provision for the public servant to have had criminal intent or to have personally benefited from the decision. Any land sale in a growing and urbanizing economy would, with passage of time, be likely to lead to a "pecuniary advantage" to some person, and it would be up to the agency investigating to determine whether this was "without public interest." Unfortunately, there had been a number of such cases in which it had been so determined and the dealing officers had been prosecuted. The sale of textile mill land by the National Textile Corporation was one such instance.[13]

Understandably, officials dealing with closure and land alienation of public enterprises would find ways to ensure that they did not have to take such decisions during their tenures. This was a major impediment to the implementation of a closure policy.

We tackled the problem by restricting the disposal of immovable assets primarily to central and state governments, their enterprises, and state entities. This makes sense if we look at government as a whole and not as individual enterprises or departments.

Most of the early CPSEs were able to obtain land at prime locations near urban centers at nominal costs. These areas developed and became heavily urbanized. To meet fresh requirements of urban land for public entities, the costs of acquiring land inevitably become high, and prime locations cease to be available. Land in these cities is now available only at a high cost and at a considerable distance from the urban centers. With this strategy, the idle productive assets of CPSEs could be gainfully utilized for alternate public purposes, reducing the cost for their consumer, the taxpayer. This approach also opened a window to meet priority land requirements for governments and public projects in suitable locations nearer urban centers.

And, most importantly, there would be no reason for any reluctance on the part of the concerned officials to take decisions, since any land value–related windfall benefit that might arise in future would accrue only to a government or public entity. There would be no possibility of allegations of providing pecuniary advantage to any private buyer.

The government set up a committee of secretaries to prepare a consensus view on the potential use of land that would be released by the closure of the CPSEs. The initial view of the committee members favored outright land sale and monetization. However, we had thought through the alternatives and were finally able to convince the committee (after considerable debate and discussion) to back our proposal. This greatly helped in making our new land strategy acceptable at the final decisionmaking level.

Movable Assets

The companies proposed for closure had a large volume of movable assets in their possession, including plants and machinery, furniture and fixtures, vehicles, inventory of finished and unfinished goods, and so on. The basic strategy here was to relieve the management of the units under closure from the responsibility of organizing the sale and entrust it instead to an independent professional organization. This was done because the management lacked experience with such large-volume disposal of assets. Moving slowly would have reinforced their vested interest in continuance, and this could have delayed the closure and release of land for alternative use.

The sale of these assets in respect to Hindustan Cables and TSPL was proposed to be carried out through a CPSE engaged in this business, Metal Scrap Trading Corporation. For the HMT subsidiaries, since the holding company continued to operate, we felt that it would be more convenient for the sale of movable assets to be executed by the holding company.

For all five companies, we envisaged that the sale proceeds would be kept aside in an escrow account and used for meeting any immediate liabilities and for the security arrangements for the immovable assets. We were aware that perhaps more revenues could have been realized if the sale were executed by the companies themselves, but retaining the staff to execute this potentially long process would have become another hurdle in the closure of these CPSEs. This methodology was supported by the other ministries and approved by the cabinet. The sales of movable assets went smoothly.

Dues to Creditors: Negotiation of a One-Time Settlement

Over the years, the Government of India had been extending loans to loss-making CPSEs as support to pay salaries and/or attempt revival. The principal amount and the accrued interest were accordingly reflected as liabilities on the companies' balance sheets. It is a moot question whether there was any expectation that the loans and interest would be repaid. The accounting difference between the government's support being in the form of outright grants or loans was that if it came as grants, they would be counted as revenue expenditure, but if given as loans, they were accounted as capital expenditure in the Union Budget (with the corresponding impact on revenue deficit closely followed by fiscal analysts).

The total outstanding amount at the end of December in respect to the five CPSEs proposed for closure was around INR 5700 crore. Under commercial financial norms, these loans would have qualified as nonperforming assets long ago and merited writeoff *suo moto*. We therefore proposed that these be waived, and in return thereof, the government assume rights over the land assets of the companies after helping them discharge their other liabilities.

The other major liabilities of these CPSEs were loans taken from commercial banks in the case of Hindustan Cables and Tungabhadra Steel Products and from the holding HMT Ltd. in the case of its subsidiaries. Most of these loans too had long been nonperforming. While the principal amount in respect of Hindustan Cables and TSPL was INR 306 crore and INR 15 crore respectively, the accumulated interest on these loans were an astounding INR 2733 crore and INR 78 crore respectively. Our quick analysis showed that these loans were mostly extended when the companies were already stressed and the rates of interest were high. The banks had perhaps extended these loans on the premise that loans to government undertakings would be secure. In some cases, the companies' land was offered as collateral.

It was obvious that any attempt to release urban land for alternate economic or social use would require prior settling of the dues to these creditors. It was also apparent that we would not be able to get the large budgetary support required to completely repay the principal and the accumulated interest. It was our understanding that in accordance with the Reserve Bank of India norms for banks regarding marking provisions for nonperforming assets, the creditor banks would have made provisions for loans to these CPSEs.

We therefore offered the consortium of banks two choices. They could either settle the dues after receiving the principal amount, which we offered to pay before March of the year, or we would take the path of bankruptcy and they could recover whatever was possible after due legal process. It was also made clear to them that the government did not intend to monetize the land and would put it to alternate economic and social use. In order to give the banks assurance that the first option would get budgetary support, the discussions were led by the financial adviser of the department. The banks showed a complete lack of interest in the proposal in the beginning, almost ridiculing it. Even though the banks were all public sector, we did not seek any intervention from the Department of Financial Services, as we wanted it to be a commercial decision by the banks rather than a one-time resolution. The lead bank in the negotiations was the State Bank of India, and the matter reached their chairman and managing director. The negotiations went on for several months. Eventually, they took the offer of the bird in hand—choosing to receive the principal of the loans—thereby removing the biggest obstacle in our way.

The case of the HMT subsidiaries got complicated, as HMT Ltd. was a publicly listed company. Writing off its loans to the three closing subsidiaries would have severely impacted its profit-and-loss statement and balance sheet. So we had to devise a way that would not adversely affect its shareholder value. This was done by extinguishing a corresponding value of preference shares held by the Government of India in lieu of some earlier loans extended to the holding company. The three HMT subsidiaries being closed had total outstanding liabilities of INR 623.14 crore toward the holding company as of December 31, 2015. These appeared as short-term loans and advances in the balance sheet of HMT Ltd. The closure of the subsidiaries would require a complete writeoff of these amounts and a one-time loss during 2015–2016. The Government of India had invested through two tranches in redeemable preference shares of HMT Ltd. as part of the revival plans of HMT and HMT Machine Tools. To prevent any immediate adverse impact on the financials of the holding company, these investments were extinguished as part of the plan for closure so that there was no loss on this account. This also prevented any possible litigation by minority shareholders.

Closing of Companies

After all the steps were completed and the liabilities of the enterprise were discharged satisfactorily, the last step required was that the company should cease to exist as a legal entity. For this, we directed the respective boards of the wound-up corporations to apply under the relevant provisions of the Companies Act to the registrar of companies for removing the name of each CPSE from the register of companies. While the companies in question had already been irrevocably and effectively closed, this would complete the formalities.

In practice, as subsequent experience indicated, this would take some time to conclude.

Outcomes (2015–2018)

The outcome of these efforts was satisfactory. It was a shining example of what is possible within the system if there is will and commitment. All the five CPSEs were successfully closed. Considering that closure efforts in the past had been bogged down and could not be implemented successfully, this was indeed a big step forward.

HMT Bearings, HMT Watches, HMT Chinar Watches, and Hindustan Cables were closed in 2016, while Tungabhadra Steel Products Ltd. was closed in 2018. Except for one unit of HMT Watches, settlement was reached with the employees and creditors on the proposed lines prior to closure. In the case of one unit of HMT Watches in Raniganj, Uttarakhand, 146 employees approached and obtained a stay from the relevant high court in 2016.[14] However, even this case has since been successfully resolved, and in 2022, the Union Government transferred the HMT subsidiaries' land to the Government of Uttarakhand.

The disposal of land and movable assets went according to the guidelines. A separate land management agency, National Buildings Construction Corporation Ltd., was designated to handle the disposal process, while Metals Scrap Trading Corporation, which specializes in e-auctions, was nominated to handle the disposal of the movable assets.

This was a trailblazing initiative, since previous central government departments had preferred to adopt a more conservative and cautious approach on the implementation of the policy regarding closures of their CPSEs, even when a stronger policy direction was available. As a result, the approach adopted by the DHI roadmap became the template per which the government developed its guidelines for all future closures of CPSEs. These guidelines were deliberated upon by the NITI Aayog in consultation with other ministries of the government and issued by the Department of Public Enterprises on September 7, 2016, as "Guidelines on Time Bound Closure of Sick/Loss Making Central Public Sector Enterprises (CPSEs) and Disposal of Movable and Immovable Assets."[15]

The guidelines adopted in 2016 refined, clarified, and detailed the steps we took in DHI in the first five closure cases and prescribed them to be followed in all such cases in the future. These guidelines, with some amendments made in 2018, continue to guide the implementation of closure decisions today.

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Notes

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