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वाणिज्य और उद्योग मंत्रालय
(औद्योगिक नीति और संवर्धन विभाग)
(आईपीआर-I अनुभाग)

संकल्प

नई दिल्ली, 24 दिसम्बर, 2008

विषय : एकस्व, अभिकल्प एवं व्यापार चिह्न महानियंत्रक कार्यालय के तहत एकस्व एवं अभिकल्प के परीक्षकों की भर्ती संबंधी नीति एवं संरचना की देखरेख हेतु एक समिति का गठन।

सं. 2/10/2007-आईपीआर-I.—अंतर्राष्ट्रीय स्तर के सर्वोत्तम कार्य-व्यवहार, जो उपलब्ध हैं, को ध्यान में रखते हुए, भारत सरकार ने वाणिज्य और उद्योग मंत्रालय, औद्योगिक नीति और संवर्धन विभाग के माध्यम से एकस्व, अभिकल्प एवं व्यापार चिह्न महानियंत्रक कार्यालय के तहत एकस्व कार्यालय में एकस्व एवं अभिकल्प के परीक्षकों की भर्ती संबंधी नीति एवं संरचना की देखरेख के लिए एक समिति गठित करने की इच्छा व्यक्त की है। इसी के अनुरूप, एक समिति गठित करने का निर्णय लिया गया है जो निम्नवत है :—

1. न्यायमूर्ति श्री अल्लाह रहम (सेवानिवृत्त) — अध्यक्ष
2. सचिव, विज्ञान एवं प्रौद्योगिकी विभाग — सदस्य
(अथवा उनके द्वारा नामित)

3. सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान— सदस्य
विभाग (अथवा उनके द्वारा नामित)
4. सचिव, जैव-प्रौद्योगिकी विभाग (अथवा — सदस्य
उनके द्वारा नामित)
5. डॉ. आर. वी. वैद्यनाथ अय्यर, (पूर्व सचिव) — सदस्य
6. डॉ. अमित मित्रा, महासचिव, फिक्की — सदस्य
(अथवा उनके द्वारा नामित)
7. सुश्री सरिता नागपाल, उप महानिदेशक, — सदस्य
सीआईआई (अथवा उनके द्वारा नामित)
8. श्री एन.एन. प्रसाद, संयुक्त सचिव, — सदस्य-
औद्योगिक नीति और संवर्धन विभाग सचिव

विचारार्थ विषय :

यह समिति अंतर्राष्ट्रीय स्तर के सर्वोत्तम कार्य-व्यवहार को ध्यान में रखते हुए एकस्व, अभिकल्प एवं व्यापार चिह्न महानियंत्रक (सीजीपीडीटीएम) के एकस्व कार्यालय, विशेषकर एकस्व एवं अभिकल्प परीक्षकों की भर्ती संबंधी नीति एवं संरचना समीक्षा करेगी। यह समिति एकस्व एवं अभिकल्प के क्षेत्र तथा परीक्षकों एवं नियंत्रकों की योग्यताओं के सापेक्ष परीक्षकों एवं नियंत्रकों द्वारा एकस्व एवं अभिकल्प आवेदनों की जांच हेतु संरचना का सुझाव भी देगी।

अवधि :

समिति अपने गठन की तिथि से तीन महीने के भीतर अपनी रिपोर्ट देगी।

समिति की बैठक :

समिति की बैठक, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली में होगी।

पारिश्रमिक :

बैठक में शामिल होने के लिए समिति के अध्यक्ष एवं सदस्य (सरकारी सदस्य को छोड़कर) स्वीकार्य भत्ते (टीए/डीए, नियमानुसार) पाने के पात्र होंगे।

एन. एन. प्रसाद, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Industrial Policy and Promotion)

(IPR-I SECTION)

RESOLUTION

New Delhi, the 24th December, 2008

Subject : Constitution of a Committee to look into Recruitment Policy and Structure of Examiners of Patents And Designs under the Office of the Controller General of Patents, Designs and Trade Marks.

No. 2/10/2007-IPR-I.—The Government of India through the Ministry of Commerce and Industry, Department of Industrial Policy and Promotion has desired to constitute a Committee to look into the Recruitment Policy and Structure of Examiners of Patents and Designs in the Patent Office under Office of the Controller General of Patents Designs and Trade Marks taking into account the international best practices available. Accordingly, it has been decided to constitute a Committee as follows :—

1. Justice Shri Allah Raham (Retired) — Chairman
2. Secretary, Dept. of Science and Technology (or his nominee) — Member
3. Secretary, Dept. of Scientific and Ind. Research (or his nominee) — Member

4. Secretary, Dept. of Biotechnology (or his nominee) — Member
5. Dr. R.V. Vaidyanatha Ayyar (Former Secretary) — Member
6. Dr. Amit Mitra, Secretary General, FICCI (or her nominee) — Member
7. Ms. Sarita Nagpal, Dy. Director General, CII (or his nominee) — Member
8. Shri N.N. Prasad, Joint Secretary, DIPP — Member-Secretary

Terms of Reference

The Committee will look into the Recruitment Policy and Structure of the Patents Office of the Controller General of Patents Designs and Trade Marks (CGPDTM) especially Examiners of Patents and Designs keeping into account the international best practices. The Committee will also suggest the structure for examination of patent and designs applications by Examiners and Controllers vis-a-vis the field of patents and designs and the qualifications of the Examiners and Controllers.

Duration :

The Committee will submit its report within three months from the date of its constitution.

Meetings of the Committee :

The meetings of the Committee will be held in Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi.

Remuneration :

The Chairman and the Members of the Committee (other than official will be entitled to admissible allowances (TA/DA, as per rules) for attending the meetings.

N.N. PRASAD, Jt. Secy.



REPORT OF THE COMMITTEE

FOR

RECRUITMENT OF EXAMINERS OF

PATENTS AND DESIGNS

IN

PATENT OFFICE, INDIA

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I. CONSTITUTION OF COMMITTEE

The Government of India have constituted a Committee through the Ministry of Commerce and Industry, DIPP to look into Recruitment Policy and Structure of the Patent Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM) especially Examiners of Patents and Designs keeping in view the international best practices and to suggest the structure for examination of patent and designs applications by Examiners and Controllers vis-à-vis the field of patents and designs and the qualifications of Examiners and Controllers, vide DIPP's Resolution dated 24th December, 2008, No. 2/10/2007- IPR -1, notified in the Gazette of India- Extraordinary, Part I, No. 446, dated 24th December, 2008 and subsequent amendments dated 5th March, 2009, 20th March, 2009 and 14th July, 2009 (copy enclosed- **Annexure I, II, III and IV**).

The constitution of the Committee is as follows:

1. Justice Shri Allah Raham (Retired) - Chairman
2. Secretary, Department of Science & Technology (or his nominee)
- Member
3. Secretary, Department of Scientific & Industrial Research
(or his nominee) - Member
4. Secretary, Department of Biotechnology (or his nominee)
- Member
5. Dr.R.V. Vaidyanatha Ayyar (Former Secretary)
- Member

6. Dr. Amit Mitra, Secretary General FICCI (or his nominee)
 - Member
7. Ms. Sarita Nagpal, Dy. Director General ,CII (or his nominee)
 - Member
8. Shri N. N. Prasad , Joint Secretary, DIPP - Member
Shri Gopal Krishna, Joint Secretary, DIPP, has been nominated as Member of the Committee vide Amendment dated 14th July, 2009 in place of Shri N. N. Prasad, ex- Joint Secretary, DIPP who has proceeded to take up a WIPO assignment
9. Shri P.H. Kurian, Controller General of Patents, Designs and Trade Marks - Member Secretary
(Nominated as a Member Secretary, vide Amendment dated 5th March, 2009)

Specific issues before the Committee include looking into the recruitment policy and structure of the Patent Office Examiners of Patents and Designs especially Examiners of Patents and Designs keeping in view the international best practices. The committee has also been requested to suggest the structure for examination of patent and designs applications by Examiners and Controllers vis-à-vis the field of patents and designs and the qualifications of Examiners and Controllers in Indian Patent Office.

The Committee was to submit its report within three months of its constitution, however, owing to the complexity of the subject and broad spectrum of issues for consideration of the Committee, its term has been extended up to 31st August, 2009 vide Resolution dated (copy enclosed- **Annexure IV**).

II. MEETINGS

The Committee had two meetings at Udyog Bhavan, New Delhi on 6th March, 2009 and 27th April, 2009 respectively under the Chairmanship of Justice Allah Raham (Retd.).

The Committee had elaborate discussion on all relevant issues during these meetings. While appreciating achievements of Patent Office in infrastructure development, computerization and streamlining patent procedures, the Committee expressed an urgent need to address issues of lack of sufficient manpower in the Patent Office to cope up with the exponentially increasing pendency of patent applications, streamlining the recruitment rules, training of new examiners, career growth plan for Examiners and Controllers and preventing high attrition rate etc. (copies of Minutes of Meetings enclosed – **Annexure V-A & V-B**)

Having discussed elaborately issues like qualifications, mode of recruitment, agency for recruitment, training of Examiners etc. the committee now submits its report along with recommendation.

III. BACKGROUND

In today's knowledge – based economy, IPRs play a major role in industrial, economic, social and cultural growth of the country and has assumed the importance as new wealth of nations. Patents are particularly important as an indicator of industrial and technological development, facilitator for global trade in goods, services and knowledge and an important instrument for transfer and dissemination of technology at home and on the global platform. Patents identify emerging technologies, research areas and business opportunities and help an industry to improve existing technology to give cheaper and better products and, thus, increasing its negotiating power and establishing it as a pre-eminent player in the market. Patent is therefore a vital tool for international trade. Due to India's strategic position worldwide because of unique geographical shape and size, diversified resources, fastest growing economy, largest market in the world, vast human resources and expertise in science, technology, IT and other key areas, India is playing a major role in the global IP-Scenario.

Realizing the importance of patents in the Indian context and keeping in view the future growth prospects of patents in attaining competitiveness in the globalized economy, it is necessary that the Patent Office be further upgraded in terms of man and materials both so as to be efficient to provide quality and timely services to the stake holders. Therefore, number of steps have been initiated during the last decade to strengthen patent administration in the country under the CGPDTM. An ambitious plan for modernization of Indian Patent Office was launched under the Xth Plan in the year 2000.

After achieving reasonable success in infrastructure development, computerization, digitization of records, upgradation of search facilities, reengineering of patent procedures during the Xth Plan, modernization activities have been further continued during the XIth Plan as well with the aim to achieve complete automation, streamlining of patent procedures, operationalization of International Searching Authority (ISA) / International Preliminary Examination Authority (IPEA) and inculcating total transparency in functioning. The ultimate objective is to develop Indian Patent Office as a fully IT-enabled world class IP Office and globally accredited organization as a provider of effective and efficient services to the IP-user community.

India has complied with international obligations by accessing to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and other International instruments for effective implementation of IPRs in the country. Steps have been taken by the Government not only for ensuring compliance of international obligations but also revamping the legislative framework to enable installation of an efficient administrative structure capable of providing IP services of global standards. India has suitably amended the Patents Act and Rules during the last couple of years to update patent procedures. The final amendment in the Patents Act, 1970 was made in 2005 as Patents (Amendment Act), 2005 and in Patent Rules, 2003 as Patent (Amendment) Rules, 2006. As a result, examination and grant procedures have become much simplified and user-friendly and patents are granted in all fields of technology for products and processes with 20 year patent term.

There has been tremendous increase in the patent filing and grant, particularly during last few years (**Annexure – VI**). There is about 20% annual increase in patent filing and during 2008-09 the filing has reached 37876 as against 10500 in the year 2001-02.

Prior to the year 2000-2001, the strength of technical manpower of the Patent Office i.e. Examiners and Controllers was so meager that it was imperative to boost the same immediately after the onset of the Xth Plan. As a result, 172 Examiners were recruited and 36 posts of Controllers were filled up on promotion under Plan during the period from 2001 to 2003 in an attempt to wipe out the backlog of examination of patent applications.

Indian Patent Law has introduced a unique provision of deferred examination system from 20th May, 2003. As a result, examination of patent applications is conducted in order of filing of requests for examination. Since then, there is a spontaneous hike in patent filing as well as filing of requests of examination so much so that more than 57000 requests are now pending in various fields of technologies due to lack of sufficient number of examiners.

Quality human resource is a pre-requisite for proper Intellectual Property (IP) regime in any country. When India is aiming at introducing global best practices and high standards in the patent system, the first priority ought to be the development of human resources in the Patent Office. During the formulation of XIth Plan, due consideration was given to augment the technical manpower in an appropriate and commensurate manner so that undue delay in grant of patent is avoided and all the timelines specified in the patent examination procedure as well as granting procedure

are adhered to. As a result, provision was made for 617 posts of Examiners and 125 posts of Controllers to be filled up in the Intellectual Property Office during the XIth Plan out of which 200 posts of Examiners and 51 posts of controllers have been sanctioned by the Ministry under the Plan Scheme 'Modernization and Strengthening of Intellectual Property Offices' vide Ministry Sanction Order F/No. 6/6/2007- IPR -1, dated 22nd October, 2008. These plan posts of examiners and Controllers and 57 resultant vacancies of Examiners are required to be filled up immediately. During the year 2008-09 and 2009-10, 47 posts of Assistant Controllers, 7 posts of Deputy Controllers, 1 post of Joint Controller and 1 post of Senior Joint Controller have been filled up so far through Departmental Promotion Mode.

Recruitment of this large number Examiners is a challenging task and needs formulating proper policy and modalities. The post of examiner is an entry level post and higher posts i.e. those of Controllers are all filled up through Departmental Promotions. It is therefore, imperative that the properly qualified personnel are inducted as Examiners in the Patent Office to ensure quality service to patent stakeholders. The Government of India has therefore constituted the Committee to look into Recruitment Policy and Structure of the Patent Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM) especially Examiners of Patents and Designs keeping in view the international best practices and to suggest the structure for examination of patent and designs applications by Examiners and Controllers vis-à-vis the field of patents and designs and the qualifications of Examiners and Controllers

IV. INTERNATIONAL PRACTICES IN RECRUITMENT AND TRAINING

The Committee took into consideration the practices in force in some major countries/ offices which are recognized as pursuing the strong IP-regime like European Patent Office (EPO), United States Patent & Trade marks Office (USPTO) and Japan Patent Office (JPO) vis-à-vis Indian practices. Although the provisions of the Indian Patent Act and Rules are generally in tune with the global practices, the Committee has reviewed the Indian practice in the light of international provisions in this regard. In particular, the present practice of training of Examiners in India needs to be revamped in view of the comprehensive induction training programme of examiners and continuous in-service training programme being implemented in many developed countries.

A) UNITED STATES PATENTS & TRADE MARKS OFFICE (USPTO):

- **Job requirement of Examiner:**
 - Reviewing patent applications to assess if they comply with the basic format, rules and legal requirements, determining the scope of the protection claimed by the inventor, researching relevant technologies to compare similar prior inventions with the invention claimed in the patent applications, and communicating the Examiner's findings to patent practitioners/inventors with reasons on the patentability of applicant's inventions.

- Patent Examiners are responsible for the quality, productivity, and timely processing of patent applications, which is the basis of their performance evaluation.

- **Qualification:**

Four-year course of study leading to a bachelor's degree in any of the following specialties:

Chemistry, Physics, Biology, Microbiology, Pharmacology, Computer Science and Engineering Disciplines like Aerospace, Electronics, Agriculture, Biochemical, Biomedical, Materials, Chemical, Mechanical, Ceramic, Mining, Computer, Nuclear, Civil, Petroleum , Textiles and Industrial/ General Engineering

- **Experience :** Not necessary
- **Selection process:** Through Interview
- **Training:**
 - Training at U.S. Patent Training Academy for first year Examiners is mandatory. Standardized training is provided to new patent examiners to teach them the basic skills and knowledge of the patent process, practices and procedures such that they will be able to successfully examine a patent application
 - Training for new examiners in Legal, Procedural, Automation, Life Skills, Technical, and Professional Development is mandatory for all first year examiners

- Legal and procedural training, continuing education courses plus enhanced instruction in areas such as: classification systems, searching, claim interpretation, advanced text searching, writing an effective examiner's answer, appeal procedure and practice, examining applications in specific areas of technology, current state of specific technologies, ongoing technology topics, review of recent court of appeals for the Federal Circuit Decisions, update on rule changes etc.

B) EUROPEAN PATENT OFFICE (EPO):

- **Job Requirements For Examiner :**

The job of a European Patent Examiner demands a unique combination of scientific expertise, analytical thinking, language skills and an interest in intellectual property law. Their daily work combines **scientific expertise** with **analytical research** and an eye for the **legal aspects of intellectual property**.

- The main task of an examiner is to search and examine patent applications received by the EPO.
- The purpose of the search is to find the most relevant previously published technical disclosures ("prior art") against which the patentability of the application can be assessed.
- Examination enables the applicant (or authorised representative such as a patent attorney) to be informed of any objections to the grant of a patent, with a view to resolving these through correspondence and, where necessary, oral proceedings.

- Examiners may also be involved in opposition proceedings if the patent is contested.

- **Qualification:**

- Citizenship of one of the member states of the European Patent Organisation.
- Full university degree in Physics, Chemistry, Engineering or natural sciences (3 year course)
- Proficiency in an EPO official language (English, French or German), and the ability to understand the other two.

Applications from candidates who have an excellent knowledge of one official language but are able to understand only one of the other two may be considered if they are willing to learn the third before starting work.

- The candidate should also have a genuine interest in technology, an eye for detail and an analytical mind.

- **Experience:**

Work experience in industry is not essential, but would be an advantage.

- **Selection:**

- Online application form is included as a link in each vacancy notice.
- After the closing date, a **selection board** goes through the applications and decides which candidates to invite for interview.
- Shortlisted candidates are interviewed at the EPO site to which they applied.

- The **interview** evaluates their **language skills** and whether they have the **professional skills** required.
 - As part of the selection procedure, candidates might also be asked to sit for tests.
 - The Selection Board usually recommends one or more candidates as suitable for the post in question. The final decision is taken by or on behalf of the President of the EPO.
- **Training:**
 - EPO provides a two-year training programme for newly recruited examiners, combining classroom learning (in groups of 12) with tutoring by individually assigned personal coaches during their first year who are specially trained and experienced examiners who are experts in the new examiner's field.
 - Training covers the following aspects :
 - Hands-on learning about everyday tools and procedures viz., computer tools, databases, search methods and procedures used in everyday examining work.
 - Legal and practical expertise viz., training in application of the patentability criteria
 - European and International Patent Law and Practice
 - Language skills
 - Work on real-life patents : Newly recruited examiners work on actual patent applications from day one under the close supervision of their coaches.

C) JAPAN PATENT OFFICE (JPO)

- **Job requirement for examiner:**

Examiners carry out patent search and examination of patent applications

- **Qualification:**

Examiners generally have a technical educational background from University or Colleges and at least a Bachelor's or a Master's degree. Some of them have a Doctorate degree

- **Experience:** Not necessary

- **Selection:**

- JPO recruits examiners from applicants who have passed the first level National Public Servant Recruitment Examination in the divisions of science, engineering or agriculture.
- The relevant examination is ranked as the most difficult among National Public Servant Recruitment Examinations.
- Furthermore, the successful applicants undergo a character test and their nature is carefully evaluated.
- English is one of the subjects in the first Level National Public Servant Recruitment Examination. JPO regards English ability as an essential element in recruitment of its staff.

- **Training :**

- First stage Training (a) :

The training for Assistant Examiner is conducted about 173 hours course in the first year of entrance into the Office. Training includes knowing JPO organization and functions, learning basic policy and to acquire fundamental knowledge and skills required for examination as an Examiner of Patents.

- First stage Training (b) : The Preceding Training for Examiners

The training for Assistant Examiner's course is conducted for about 133 hours in the second year of entrance into the Patent Office to acquire expert knowledge on industrial property laws and treaties and to master knowledge related to practical patent examination as well as skills to deal with actual cases.

- First stage Training (c): The later training for examiners

The training for Assistant Examiner's course is conducted for about 49 hours in the fourth year of entrance into the Office. This training aims to acquire the vision of things and insight as examiners as well as enhance their practical examination skills through the practical examination works

- Assistant Examiners are required to receive specified English language training before they are promoted to Examiners. They can also participate in training courses in other foreign languages such as French, German, Russian, Chinese, etc

V. INDIAN PRACTICE

- **Job requirement for Examiner :**

- To examine patent applications as per provisions of the Patents Act and to give his report to the Controller
- To assist the Controller during hearing of patent matters
- Other assignments relating to patents entrusted to them by the Technical Head/ CGPDTM

- **Qualifications and Selection Criteria:**

Requirement of qualifications for the post of Examiner is notified by the Government of India in the form of Recruitment Rules that have undergone changes from time to time to be commensurate with respect to ever changing industrial and technological scenario, need of Patent Office to examine applications in diversified areas and administrative reasons. Thus, till 1999, the recruitment of Examiners of Patents and Designs was through the Union Public Service Commission (UPSC) and Recruitment Rules as notified on 31st October, 1983 vide GSR No. 856 were in practice. Recruitment of Examiners was taken out from UPSC vide Recruitment Rules notified in the Gazette of India Extra-ordinary part II Section 3 (i) vide G.S.R. 377 dated 13th July, 2001 and the same is administered through Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce & Industry.

Subsequent to the amendments made in 2001, the recruitment rules were further amended and notified vide G.S.R. 574(E), dated 5th September, 2007. These rules were amended again in 2009 as Recruitment (Amendment) Rules vide G.S.R. 332 (E), dated 15th May, 2009.

Besides, the Patent Office under the CGPDTM has been declared as a Scientific Department vide Office Memorandum No. DST/SAC-PM/1(56)/87 , dated 12th November, 1987.

At present, recruitment of examiners is governed by the Principal Rules as notified in the Gazette of India Extraordinary part II, Section 3 (i) vide G.S.R. 574 (E) dated 5th September, 2007 along with Recruitment (Amendment) Rules notified vide G.S.R. 332 (E), dated 15th May, 2009 incorporating amendment regarding composition of Selection Committee for selection of candidates for appointment on direct recruitment basis (copies enclosed- Annexure-VII & VIII) . These rules are summarized as follows :

○ **Educational Qualifications**

- **Essential :**

The candidate must have Master's degree in Physics/ Chemistry/ Bio-Chemistry/ Microbiology/ Molecular Biology/ Bio-Technology/ Bio-Physics or Degree in Technology/ Engineering of a Recognized University or Equivalent

- **Desirable:**

- i) Research Experience
- ii) Degree in Law of Recognized University or equivalent
- iii) Certificate/diploma from a recognized University/
Institute of foreign languages like German, French
Russian, Spanish etc.

○ **Composition of Selection Committee for selection of candidates for appointment on direct recruitment basis :**

“ Recruitment shall be in accordance with the procedure or mechanism approved by the Central Government from time to time.”

○ **Experience:**

No prior experience in the field of patent is required as qualification.

● **Selection :**

DIPP has made three recruitments for the post of examiners since 2001; the first two through Educational Consultant India Ltd (EDCIL), a Public Sector Enterprise under the Human Resources Ministry, Government of India for 172 posts and the last one direct for 8 posts.

In the case of recruitments made through EDCIL, the merit positions of the selected candidates were decided in order of cumulative merit of their achievements both in educational qualifications and personal interview. Candidates were short-listed for interview based upon their achievements in respect of educational qualifications. Higher marks were allotted for brighter achievements in essential qualification-related examinations. Marks were also allotted for achievements in desirable qualifications and the total score was used as criteria for eligibility for interview. Marks scored in the interview and on account of educational qualifications were clubbed to prepare the final score and merit list.

In the case of recruitment made directly by the Department the candidates for interview were short-listed based upon their eligibility according to the educational qualifications and final selection was made purely on the basis of the performance in interview.

- **Training :**

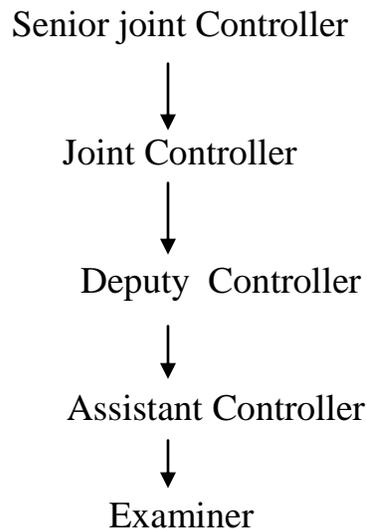
All 172 new examiners recruited during the period 2001-2003 were given two weeks induction training at Intellectual Property Training Institute (IPTI), Nagpur, (Now, National Institute of Intellectual Property Management (NIIPM), in the batches of 30. The training included detailed lectures and presentations by expert faculties on all aspects of Patents Act and Rules followed by interactive discussions. The course also included practical training on Patent search, use of computers, databases and other relevant patent matters. Candidates were exposed to practical aspects of

examination by training them on real patent files as practical exercises. Senior officers of Patent Office in different fields were deputed as faculties for the training programme.

In the second phase of training, new examiners were trained under the supervision of senior officers of Patent office at the respective Patent Office locations on one-to-one basis for 3-4 months to enable them to learn all practical aspects of examination and other proceedings under the Patents Act and Rules. New examiners were exposed to Refresher course of one week which was an advanced training programme on patent procedures, after a few months of joining the Patent office.

- **Career Progression:**

At present, the promotion and career development avenues available to the newly recruited examiners are far from satisfactory. The hierarchy in the patent Office is as follows:



At every stage of promotion, minimum five years of service in the previous grade is required. However, the number of posts in each grade goes down sharply in the hierarchical order and, as such, it is very difficult for most of the examiners to get more than one or two promotions in his entire tenure as per the prevalent scheme of recruitment and promotion. An Examiner can be promoted as an Assistant Controller after putting 5 years' service as an Examiner subject to the availability of posts. Thus, owing to the creation of higher posts under XIth plan, as many as 47 Examiners could get promotion during 2008-09 in a single lot as Assistant Controllers after putting 6 -7 years service as Examiner. However, the previous batches of Examiners had a long waiting period, as much as 15 years in some cases, and, if nothing concrete is done in this regard, there could be a serious stagnation for those waiting in the wings for their turn for promotion as an Assistant Controller.

VI. OBSERVATIONS OF THE COMMITTEE

The committee discussed in detail the present practice of recruitment of Examiners in the Patent Office, need to enhance strength of Examiners, assessment of field wise vacancies of Examiners, modalities for recruitment, agency for recruitment, training requirement, need for reviewing recruitment rules, carrier growth etc. The committee's observations on all these issues and recommendations are given in the following paragraphs.

VI. 1. Procedure of Examination at Patent Office:

Patent applications which are filed in the Patent Office for grant of patents pertain to inventions in all fields of science and technology. An invention can be as simple as a tooth brush and as complex as a new drug molecule involving a highly complex chemical structure. All these inventions are classified according to the subject matter claimed and fall in any one of the groups and sub groups of International Patent Classification. Besides, in the Patent Office, these patent applications are categorized in 18 broad fields of science and technology according to the subject matter involved e.g. Chemistry, Physics, Biotechnology, Electronics, Mechanical Engineering etc. and incorporating all International Patent Classification (IPC) groups and subgroups.

Patent applications become mature for examination when publication under section 11(A) takes place and request for examination has been filed. Thereafter, these applications are allotted to Examiners according to their respective fields of specialization for conducting examination for novelty, inventive step and industrial applicability. The examiner conducts search for prior art and identifies anticipating documents in various worldwide databases and non-patent literature and also checks for other essential requirements for grant of patent as prescribed under the Patents Act and Rules. The Controller then inspects the report of examination submitted by the examiner and, after modification required if any, communicates the gist of objections to the applicant as First Examination Report (FER). The Applicant is required to comply with the objections for putting in order for grant before expiry of 12 months. After considering the response to FER from the applicant and further communications in this regard, the Controller decides whether to grant or refuse the patent or whether the claims need to be amended before granting a patent. In the meantime, if there is any pre-grant opposition, the same is to be disposed of by the Controller before the patent is granted. After grant of a patent, any person interested can oppose the grant within 12 months from the date of grant.

Thus, the processing of patent applications for examination and grant demands expertise of an Examiner in the particular field of science or technology of the subject-matter of a patent application and thorough knowledge of Patents Act, Rules and procedures. In

other words, it is necessary that the patent application must be examined by the Examiner who belongs to the same or similar field as that of the invention.

The Committee is of the opinion that the Patent Office should recruit sufficient number of Examiners in all fields of science and technology as may be required so that a patent application in the particular field is dealt with by the expert i.e Examiner And Controller in that field.

The Committee is also of the opinion that the number of vacancies to be filled in each field should be earmarked and the field-wise breakup should be obtained from the O/o CGPDTM which, in turn, should be based on the present strength vis-à-vis backlog of pending applications awaiting disposal.

VI. 2. Methodology for Earmarking Field-wise Vacancies

The Committee has noted that at present there is gross imbalance between number of Examiners and Controllers available at Patent Office and the filing trend of applications/ pendency of requests of examination in various fields.

Priority date of applications filed in the Patent Office is maintained in two ways : (a) based on the filing date or priority date of an application; (b) based on the date of filing of Request of Examination. Trends in respect of fields in which requests of examination are filed or patent applications are filed at the Patent

Office may vary from year to year. Examination of applications is carried out in serial order of Requests of Examination. At present, more than 57000 requests in 16 fields of science and technology awaiting examination are pending at Patent Office; the number of which is increasing exponentially. Therefore, the number of applications filed every year in each of the 16 fields is as important as the requests of examination pending in that field. Hence, there is a need to keep in mind this aspect while deciding on vacancies in different fields in future recruitment. As provided by the CGPDTM, assessment of number of Examiners required in various fields of inventions based on the above criteria is annexed as **Annexure – IX**.

The Committee is of the opinion that the earmarking of vacancies in different fields should be done on the basis of two indicators i.e. Filing trend of applications and pendency of Requests of examination in various fields and then taking a weighted average of the two in the ratio of 60:40. The filing trend shall be the average of past three years' filing in each field. Accordingly, the number of examiners required in each field shall be finalized by the CGPDTM and the same will be mentioned in the advertisement.

VI. 3. Modalities of Selection.

An Examiner of Patents and Designs is a key entry level post in the Patent Office having *quasi judicial* powers in relation to

processing of application and grant of a patent. They have to deal with patent stake holders including legal professionals and patent agents at various stages and interact with them in an efficient and effective manner. Higher supervisory posts above Examiners viz., Controllers of Patents and Designs are all filled through 100% promotions. Thus, Examiners must have the sound knowledge of their field to keep the examination level at high standards and always maintain the sustained tradition of quality. Professional requirements for the post of Examiner makes it imperative that the candidates to be selected for this post should be tested for their knowledge in the respective subject and also for their communication skills, personality, behavior traits, etc.

The Committee has examined the issues related to modalities to be adopted for selection of Examiners. The Committee is of the opinion that:

- **The selection procedure should comprise of written test and personal interview.**
- **The written examination can be on the line of NET examination conducted by UGC. Accordingly, the syllabi for examination should be prepared for each discipline of science and engineering / technology**
- **The written test should have two parts: (a) objective type questions with multiple choice based on the subject of study along with appropriate number of objective questions of**

general appraisal type and (b) subjective type of questions in the subject of study.

- **Merit list of candidates should be prepared on the basis of marks scored in each subject and the same should be used as criteria for calling for interview.**
- **Number of candidates to be called for interview should be about 5 times the number of vacancies.**
- **The Interview Board / Selection Committee should be decided by the Recruitment Agency.**
- **Marks for interview should be 20% of the total marks**
- **During the interview, a candidate should be assessed for Communication skills, behavior pattern and general awareness of patent system. Higher academic achievements and achievement in the area of desirable qualification may also be given some weightage .**
- **Merit list of candidates based on the score of marks obtained in the written test and interview should be prepared in each subject and the list of selected candidates in each field with due consideration to statutory reservations should be prepared and communicated to the CGPDTM by the Recruitment Agency.**
- **Along with the main selection list, the waiting list of 50% of the number of selected candidates in each subject and category should be prepared and sent to the CGPDTM by the Recruitment Agency**

- **The Office of CGPDTM will complete all the remaining formalities and expedite the procedure so that the selected candidates are in place by the end of 2009-2010**

VI. 4 . Agency for Recruitment

Recruitment of as many as 257 Examiners is itself a challenging task as the number of applicants may be in thousands, spread over among different fields. The actual recruitment procedure will involve multiple stages like advertising of posts, verification of all applications, screening of candidates through written test, earmarking candidates for interview, conducting interviews in all the specified fields and preparation of final merit list.

Since the Office of the CGPDTM does not have enough resources to undertake formalities of recruitment procedure, the task should be assigned to the Agency which is specialized in undertaking responsibility of such type of large scale recruitment.

The issue of appointing a suitable Agency for this purpose was discussed in the Committee Meetings. It was agreed in the first meeting that the Recruitment and Assessment Board (RAB), CSIR, which regularly conducts interviews for selection of candidates for various posts in CSIR, should be entrusted with this task. During the second meeting, the RAB representative informed that the HRD group of CSIR conducts written examination for screening of large number of candidates in National Eligibility Test (NET) for

recruitment of lecturers in multiple disciplines for educational institutions.

The Committee is of the opinion that the selection procedure should be handled by RAB (CSIR). Interviews of successful candidates should be conducted by RAB through the Selection Committee constituted for the purpose.

VI. 5. Training

Training of newly recruited Examiners is an essential activity to be undertaken by the office of the CGPDTM. This issue was discussed in the meetings of the committee in the light of practices followed at USPTO, EPO and JPO.

- **The Committee is of the opinion that the present scheme of training of new examiners needs revamping as the same is grossly inadequate both in terms of duration and contents. The newly recruited Examiners need to be given exhaustive induction training for one year in all aspects of patent procedures.**
- **The Committee is also of the opinion that since there is an urgency of taking up the examination work in view of huge pendency of applications awaiting disposal, the training of new Examiners, at the present instance, should be conducted for a period of 6 months at NIIPM, Nagpur or at any suitable place.**

At the end of this initial training, the Examiners will have to give eligibility test on understanding of Patents Act, Rules and procedure and only successful candidates will join the respective Patent Office for further practical job training. The unsuccessful candidates will be detained for induction training for further period of four weeks to be eligible for practical job training. During the practical job training at the Patent Office, Examiners will be given exhaustive training on all aspects of Indian Patent System, Procedures under Patent Cooperation Treaty (PCT), ISA/IPEA procedures etc. with particular emphasis on examination and grant procedure. It will also include training on live patent files under supervision of senior officers in the respective fields. This practical training will be for 3 to 4 months and, after satisfactory completion of the training, a new Examiner will function as a full-fledged Examiner in the Patent Office for taking up a regular work.

- The Committee is also of the opinion that examiners should be given basic legal training as they have to deal with many legal issues relating to patents. This legal training can be given at a legal academy in the country for 2-3 weeks.**
- The Committee is also of the opinion that the scheme of continuous upgradation of skills and expertise of Examiners and Controllers through regular training programmes and subject-specific refresher courses needs to be finalized and implemented at Patent Office for ensuring quality of examination and grant .**

VI. 6 . Carrier Growth Aspects

The committee has observed that there is a high attrition rate in respect of Examiners in the Patent Office and as many as 55 Examiners have so far left the job for better prospects. Examiners are a highly qualified lot aspiring for carrier growth through promotion and incentives in a reasonable period of time. Hence, in order to overcome attrition rate and to have the sustained standard of examination and grant, the **Flexible Complementary Scheme (FCS)** should be finalized forthwith.

The Committee is of the opinion that an early implementation of FCS for Examiners and Controllers will be highly useful for overcoming the attrition rate and will strengthen the examination system and improve the quality of patent grant.

VI.7. Phasing out vacancies:

The Committee has carefully studied difficulties likely to be encountered in managing recruitment of large number of Examiners in one single lot as in the present instance and also in making appropriate arrangements for their induction training immediately after recruitment.

The Committee is of the opinion that the recruitment should be made in a phased manner, say within a span of three years period. If the phasing out of vacancies is not feasible during the

present recruitment, the same shall be adopted during future recruitments.

VI. 8. Fixing Seniority of Examiners:

The committee has noted that fixing of seniority of as many as 257 Examiners to be recruited in different fields during the present recruitment needs to be done carefully by giving due consideration to the scores of all candidates in different disciplines. Actually, the standard normalization procedures are available to merge and integrate scores of candidates in each discipline with those in all other fields for the purpose of fixation of seniority of all Examiners.

The Committee is of the opinion that the standard method of normalization of scores of the candidates selected from different fields be adopted for fixing common seniority of all Examiners to make the process of recruitment uniform and just.

VI. 9. Review of Recruitment Rules:

The Committee has carefully studied the present Recruitment Rules and has observed that there is a lack of parity in the criteria of essential qualification for candidates with post-graduate degree in science and those having engineering degree. While the postgraduate degree-holders in Physics / Chemistry / Bio-Chemistry / Microbiology / Molecular Biology / Bio-Technology/ Bio-Physics only are eligible, there is no such bar of subjects in respect of engineering degree and a degree-holder in any branch of

Technology/ Engineering or equivalent fulfills the essential qualification criteria .

Since in today's knowledge-driven world, inventions and innovations are made daily in many fields and new areas of research like nanotechnology, genetics, pharmaceutical sciences etc. are being extensively covered and patent applications are filed in all subjects of science and technology, **the committee is of the opinion that there should not be any bar on the subjects of post graduate degree in science (except Mathematics, Statistics and related subjects) or degree in engineering/ technology to qualify as essential qualifications for recruitment as an Examiner.**

The Committee is therefore of the opinion that the recruitment rules of Examiners And Controllers need to be modified to include post graduate degree in any branch of science except Mathematics, Statistics and related subjects. Accordingly, the essential qualification mentioned against item No. 8 of the Recruitment Rules should read as follows:-

“Masters Degree in Science (except Mathematics, Statistics and related subjects) or Bachelor Degree in Engineering/Technology of a recognized University or equivalent”.

This provision may, however, be made applicable for the subsequent recruitment, if not found feasible at this instance.

VI. RECOMMENDATIONS OF THE COMMITTEE

1. Procedure of Examination at Patent Office:

The Committee recommends that the Patent Office should recruit sufficient number of Examiners in all fields of science and technology as may be required so that a patent application in the particular field is dealt with by the expert i.e Examiner And Controller in that field.

The Committee also recommends that the number of vacancies to be filled in each field should be earmarked and the field-wise breakup should be obtained from the O/o CGPDTM which, in turn, should be based on the present strength vis-à-vis backlog of pending applications awaiting disposal.

2. Methodology for Earmarking Field-wise Vacancies

The Committee recommends that the earmarking of vacancies in different fields should be done on the basis of two indicators i.e. Filing trend of applications and pendency of Requests of examination in various fields and then taking a weighted average of the two in the ratio of 60:40. The filing trend shall be the average of past three years' filing in each field. Accordingly, the number of examiners required in each field shall be finalized by the CGPDTM and the same will be mentioned in the advertisement.

3. Modalities of Selection:

The Committee, after examining the issues related to modalities to be adopted for selection of Examiners, recommends that:

- The selection procedure should comprise of written test and personal interview.**
- The written examination can be on the line of NET examination conducted by UGC. Accordingly, the syllabi for examination should be prepared for each discipline of science and engineering / technology**
- The written test should have two parts: (a) objective type questions with multiple choice based on the subject of study along with appropriate number of objective questions of general appraisal type and (b) subjective type of questions in the subject of study.**
- Merit list of candidates should be prepared on the basis of marks scored in each subject and the same should be used as criteria for calling for interview.**
- Number of candidates to be called for interview should be about 5 times the number of vacancies.**
- The Interview Board / Selection Committee should be decided by the Recruitment Agency.**
- Marks for interview should be 20% of the total marks**
- During the interview, a candidate should be assessed for Communication skills, behavior pattern and general awareness of patent system. Higher academic achievements and**

achievement in the area of desirable qualification may also be given some weightage .

- Merit list of candidates based on the score of marks obtained in written test and interview should be prepared in each subject and the list of selected candidates in each field with due consideration to statutory reservations should be prepared and communicated to the CGPDTM by Recruitment Agency.
- Along with the main selection list, the waiting list of 50% of the number of selected candidates in each subject and category should be prepared and sent to the CGPDTM by the Recruitment Agency
- The Office of CGPDTM will complete all the remaining formalities and expedite the procedure so that the selected candidates are in place by the end of 2009-2010.

3. Agency for Recruitment:

The Committee recommends that the selection procedure should be handled by RAB (CSIR). Interviews of successful candidates should be conducted by RAB through the Selection Committee constituted for the purpose.

4. Training :

- The Committee recommends that the present scheme of training of new examiners needs revamping as the same is grossly inadequate both in terms of duration and contents. The

newly recruited Examiners need to be given exhaustive induction training for one year in all aspects of patent procedures.

- **The Committee also recommends that since there is an urgency of taking up the examination work in view of huge pendency of applications awaiting disposal, the training of new Examiners, at the present instance, should be conducted for a period of 6 months at NIIPM, Nagpur or at any suitable place. At the end of this initial training, the Examiners will have to give eligibility test on understanding of Patents Act, Rules and procedure and only successful candidates will join the respective Patent Office for further practical job training. The unsuccessful candidates will be detained for induction training for further period of four weeks to be eligible for practical job training. During the practical job training at the Patent Office, Examiners will be given exhaustive training on all aspects of Indian Patent System, Procedures under Patent Cooperation Treaty (PCT), ISA/IPEA procedures etc. with particular emphasis on examination and grant procedure. It will also include training on live patent files under supervision of senior officers in the respective fields. This practical training will be for 3 to 4 months and, after satisfactory completion of the training, a new Examiner will function as a full-fledged Examiner in the Patent Office for taking up a regular work.**

- **The Committee also recommends that Examiners should be given basic legal training as they have to deal with many legal issues relating to patents. This legal training can be given at a legal academy in the country for 2-3 weeks.**
- **The Committee also recommends that the scheme of continuous upgradation of skills and expertise of Examiners and Controllers through regular training programmes and subject-specific refresher courses needs to be finalized and implemented at Patent Office for ensuring quality of examination and grant .**

5. Carrier Growth Aspects

The Committee recommends that an early implementation of FCS for Examiners and Controllers will be highly useful for overcoming the attrition rate and will strengthen the examination system and improve the quality of patent grant.

6. Phasing out vacancies:

The Committee recommends that the recruitment should be made in a phased manner, say within a span of three years period. If the phasing out of vacancies is not feasible during the present recruitment, the same shall be adopted during future recruitments.

7. Fixing Seniority of Examiners

The Committee recommends that the standard methods of normalization of final score of all candidates selected from different fields should be adopted for fixing common seniority of new Examiners to make the process of recruitment uniform and just.

8. Review of Recruitment Rules:

The committee recommends that there should not be any bar on the subjects of post graduate degree in science (except Mathematics, Statistics and related subjects) or degree in engineering/ technology to qualify as essential qualifications for recruitment as an Examiner.

The Committee therefore recommends that the recruitment rules of Examiners And Controllers need to be modified to include post graduate degree in any branch of science except Mathematics, Statistics and related subjects. Accordingly, the essential qualification mentioned against item No. 8 of the Recruitment Rules should read as follows:-

“ Masters Degree in Science (except Mathematics, Statistics and related subjects) or Bachelor Degree in Engineering/Technology of a recognized University or equivalent t ”.

This provision may, however, be made applicable for the subsequent recruitment of Examiners and Controllers, if not found feasible at this instance.

Annexure - VI
DETAILS OF FILING AND GRANT

(A) Patents

Activity	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Applications filed	10592	11466	12613	17466	24415	28940	35067	38776
Applications Examined	5104	9538	10709	14813	11569	14119	11751	10296
Granted	1591	1379	2469	1911	4320	7539	15261	81218

(B) Designs:

Activity	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Applications filed	3350	3124	3357	4017	4949	5521	6125
Design Registered	2426	2364	2547	3728	2852	4250	3271

(C) Filing Trend of Patent Applications in Broad Fields

Group	Applications Filed			Total Filing	% Filing
	2006 -07	2007 - 08	2008 -09*		
1. Chemical	11356	13487	10267	35110	36.74%
2. Biotechnology	2774	2069	1751	6594	6.9%
3. Electrical, Electronics & Computer Engineering	8733	11958	11241	31932	33.42
4. Mechanical	6077	7704	8128	21909	22.94%
Total	28940	35218	31387*	95545	

* Data not fully classified into fields

Annexure IX (A)

Field-wise requirement of Examiners

[Basis - Request of Examination (RQ) Pendency]

Group/ field	Request of Examination Pending & %	Examiners Assessed (Total 337)	Existing Examiners (Total 80)	Examiners required (257) (RQ basis)
Group 1 – Chemistry	20361 (35.11)	118		
<ul style="list-style-type: none"> • Chemistry • Biochemistry • Food Technology • Polymer Technology • Metallurgy 	56% 25% 4% 5% 10%	65 29 5 6 12	18 5 1 1 2	47 24 4 5 10
		118	27	91
Group- 2 - Biotechnology	2803 (4.84)	16		
<ul style="list-style-type: none"> • Biotechnology • Microbiology 	100% --	16 16	10 11	6 --
		16	21	6
Group 3- Electrical , Electronics & Computer Science	21493 (37.08%)	125		
<ul style="list-style-type: none"> • Electrical engineering • Electronics & Telecommunication • Computer & IT Engineering • Physics • Biomedical Engineering 	25% 35% 25% 7 % 8 %	31 44 31 9 10	5 9 6 3 -	26 35 25 6 10
		125	23	102
Group 4- Mechanical & others	13299 (22.95)	78		
<ul style="list-style-type: none"> • Mechanical Engineering • Civil Engineering • Textile Engineering • Industrial Engineering 	60 % 10 % 10 % 20 %	47 8 8 15	5 2 2 -	42 6 6 15
		78	9	69
Total	57955	337	80	257

Annexure IX (B)
Field-wise requirement of Examiners

[Basis - Filing Trend of Patent Applications]

Group/ field	Applications Filed (2005-06 to 2008-09) & % Filing	Examiners Required (Total 337)	Existing Examiners (Total 80)	Examiners required (257) (Filing Basis)
Group 1 - Chemistry	35110 (36.74%)	124		
• Chemistry	55%	69	18	51
• Biochemistry	25%	31	5	26
• Food Technology	5%	6	1	5
• Polymer Technology	5%	6	1	5
• Metallurgy	10%	12	2	10
		124	27	97
Group 2- Biotechnology	6594 (6.90%)	23		
• Biotechnology	100%	23	10	2
• Microbiology	--		11	
			21	2
Group 3 - Electrical , Electronics & Computer Science	31932 (33.42%)	113		
• Electrical engineering	25%	28	5	23
• Electronics & Telecommunication	35%	40	9	31
• Computer & IT	25%	28	6	22
• Physics	7 %	8	3	5
• Biomedical Engineering	8 %	9	-	9
		113	23	90
Group 4 - Mechanical & others	21909 (22.94%)	77		
• Mechanical engineering	60 %	45	5	40
• Civil Engineering				
• Textile Engineering	10 %	8	2	6
• Industrial Engineering	10 %	8	2	6
	20 %	16	-	16
		77	9	68
Total	95545	337	80	257

Annexure IX (C)
Field-wise requirement of Examiners

[Basis - Filing of Applications & Pendency of Requests of Examination (RQ)]

Group/ Field	Examiners required (Filing Basis) (A)	Examiners required (RQ basis) (B)	60% of A	40% of B	Examiners Required (257) on 60:40 Basis
Group 1 - Chemistry					
• Chemistry	51	47	30	19	49
• Biochemistry	26	24	16	10	26
• Food Technology	3	3	1	1	2
• Polymer Technology	4	3	2	1	3
• Metallurgy	10	10	6	4	10
	94	87			90
Group 2- Biotechnology					
• Biotechnology	2	6	1	2	3
• Microbiology	-	--	-	-	-
	2	6			3
Group 3 - Electrical , Electronics & Computer Engineering					
• Electrical engineering	23	26	13	11	24
• Electronics & Telecommunication	31	35	18	14	32
• Computer & IT	22	25	13	10	23
• Physics	5	6	3	3	6
• Biomedical Engineering	9	10	5	4	9
	90	92			94
Group 4 - Mechanical & others					
• Mechanical engineering	40	42	24	16	40
• Civil Engineering	6	6	4	3	7
• Textile Engineering	6	6	4	3	7
• Industrial Engineering	16	15	10	6	16
	68	69			70
	257	257			257