54.(f) The Foreign Contribution (Regulation) Act, 1976 (hereafter referred to as the repealed Act) is hereby repealed.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any organisation of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organisation of a political nature, not being a political party, under clause (j) of sub-section (j) section 3 of this Act, till such permission is withdrawn by the Central Government;

(c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under section 6 of this Act until such permission is withdrawn by the Central Government;

(d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;

(e) permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;

(f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;

(g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.

(3) Save as provided in sub-section (2), mention of particular matters in that sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.
STATEMENT OF OBJECTS AND REASONS

The Foreign Contribution (Regulation) Act, 1976 was enacted to regulate the acceptance and utilisation of foreign contribution or hospitality with a view to ensuring that our parliamentary institutions, political associations, academic and other voluntary organisations as well as individuals working in important areas of national life may function in a manner consistent with the values of a sovereign democratic republic. The Act was amended in 1984 to extend the provisions of the Act to cover second and subsequent recipients of foreign contribution and to the members of higher judiciary, besides introducing the system of grant of registration to the associations receiving foreign contribution.

2. Significant developments have taken place since 1984 such as change in internal security scenario, an increased influence of voluntary organisations, spread of use of communication and information technology, quantum jump in the amount of foreign contribution being received, and large scale growth in the number of registered organisations. This has necessitated large scale changes in the existing Act. Therefore, it has been thought appropriate to replace the present Act by a new legislation to regulate the acceptance, utilisation and accounting of foreign contribution and acceptance of foreign hospitality by a person or an association.

3. The Foreign Contribution (Regulation) Bill, 2006 provides, inter alia, to —

(i) consolidate the law to regulate, acceptance and utilisation of foreign contribution or foreign hospitality and prohibit the same for any activities detrimental to the national interests;

(ii) prohibit organisations of political nature, not being political parties from receiving foreign contribution;

(iii) bring associations engaged in production or broadcast of audio news or audio visual news or current affairs through any electronic mode under the purview of the Bill;

(iv) prohibit the use of foreign contribution for any speculative business;

(v) cap administrative expenses at fifty per cent. of the receipt of foreign contribution;

(vi) exclude foreign funds received from relatives living abroad;

(vii) make provision for intimating grounds for refusal of registration or prior permission under the Bill;

(viii) provide arrangement for sharing of information on receipt of foreign remittances by the concerned agencies to strengthen monitoring;

(ix) make registration to be valid for five years with a provision for renewal thereof, and also to provide for cancellation or suspension of registration;

(x) make provision for compounding of certain offences.

4. The Bill seeks to achieve the above objects.

New Delhi;
The 12th December, 2006.

SHIVRAJ V. PATIL.
Notes on Clauses

Clause 2.— This clause defines various expressions occurring in the Bill.

Clause 3.— This clause, inter alia, provides for prohibition to accept foreign contribution by certain persons or associations, namely, candidate for election, correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper, Judge, Government servant or employee of any corporation, or any other body controlled or owned by the Government, member of any Legislature, political party or office-bearer thereof, organisation of a political nature as may be specified by the Central Government; or association or a company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode or any other electronic form as defined in clause (r) of sub-section (f) of section 2 of the Information Technology Act, 2000; or any other mode of mass communication; or correspondent or columnist, cartoonist, editor, owner of the said association or the company. This clause further prohibits acceptance of any foreign contribution or any foreign currency on behalf of any political party or a person referred to in sub-clause (f) of this clause. It is further provided that any currency whether Indian or foreign which has been accepted from any foreign source shall not be delivered to any person if such person intends, or is likely, to deliver such currency to any political party or any of the aforesaid person.

Clause 4.— This clause provides that the prohibition to accept foreign contribution under clause 3 shall not apply in case where such contribution is accepted by way of salary, wages or other remuneration from any foreign source or by way of payment in the ordinary course of business transacted in India by the foreign source; or by way of payment in the course of international trade or commerce or in the ordinary course of business transacted outside India or as an agent of foreign source in relation to any transaction made by such foreign source with the Central Government; or State Government or by way of gift or presentation made to him as a member of any Indian delegation if such gift or present was in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or by way of remittance received in the ordinary course of business through any official channel, post office or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or by way of payment received from the relative of any person referred to in clause 3. However, in case any foreign contribution received by any person specified under clause 3 of the Bill for any of the purposes other than those specified under this clause, such contribution shall be deemed to have been accepted in contravention of the provisions of clause 3.

Clause 5.— Item (f) of sub-clause (f) of clause 3 prohibits acceptance of foreign contribution by any organisation of a political nature specified by the Central Government. This clause lays down the procedure to notify an organisation of a political nature referred to in the said item (f). This clause provides that the Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party. Before making an order, the Central Government shall give the organisation in respect of whom the order is proposed to be made a notice in writing informing it of the ground or grounds, on which it is proposed to be specified an organisation of a political nature. However, the Central Government may, by rules made by it, specify the ground or grounds on which an organisation shall be specified as an organisation of a political nature. The organisation to whom a notice has been served may, within a period of thirty days from the date of the
notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation of a political nature. The Central Government may forward the representation to any authority to report on such representation. The Central Government shall, after considering the representation and the report of the authority, specify such organisation as an organisation of a political nature not being a political party.

Clause 6.—This clause provides for restriction on acceptance of foreign hospitality. It provides that no member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government any foreign hospitality. However, it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India. Where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality, an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which such hospitality was received by him.

Clause 7.—This clause prohibits the transfer of foreign contribution to any other person. It provides that no person who is registered or has obtained prior permission under the proposed legislation and receives any foreign contribution, shall transfer such foreign contribution to any other person unless such other person is also registered or obtained prior permission under the proposed legislation.

Clause 8.—This clause contains restriction to utilise foreign contribution for administrative purposes. This clause provides that every person, who is registered or has obtained prior permission under the proposed legislation and receives any foreign contribution, shall utilise such contribution for the purposes for which the contribution is received and any foreign contribution or any income arising out of it shall not be used for speculative business. It further provides that such person shall not defray as far as possible such sum, not exceeding fifty per cent. thereof received in a financial year to meet administrative expenses. However, any sum exceeding fifty per cent. of such contribution may be defrayed with prior approval of the Central Government. This clause also confers power upon the Central Government to prescribe the expenses which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

Clause 9.—This clause confers power upon the Central Government to (a) prohibit any person or organisation not specified in clause 3 from accepting any foreign contribution; (b) require any person or class of persons not specified in clause 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised; (c) require any person or class of persons not specified in clause 6 to obtain prior permission of the Central Government before accepting any foreign hospitality; (d) require any person or class of persons specified in sub-clause (I) of clause 11 to obtain prior permission of the Central Government before accepting any foreign contribution; (e) require any person or class of persons, not specified in clause 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received. However, no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons or the acceptance of foreign hospitality by such person, is likely to affect prejudicially the sovereignty and integrity of India; or the public interest; or freedom or fairness of election to any Legislature; or friendly relations with any foreign State; or harmony between religious, racial, social, linguistic or regional groups, castes, or communities.

Clause 10.—This clause confers power upon the Central Government to prohibit payment of currency received in contravention of the proposed legislation. It provides
that where the Central Government is satisfied, after making such enquiry as it may deem fit, that any person has in his custody or control of any article or currency, whether Indian or foreign which has been accepted by such person in contravention of any of the provisions of the proposed legislation, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 shall, so far as may be, apply to, or in relation to, such article or currency and references in the said sub-clauses to moneys, securities or credits shall be construed as references to such article or currency.

Clause 11.— This clause contains provisions relating to registration of certain persons with the Central Government. This clause provides that no person having a definite cultural, economic, educational, religious or social programmes shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government. However any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

However, if a person referred to in this sub-clause is not registered with the Central Government, such person may accept any foreign contribution only after obtaining the prior permission from the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and for specific source from which it is obtained. If the person referred to in sub-clause (1) or sub-clause (2) has been found guilty of violation of any provisions of this Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

This clause also confers powers upon the Central Government to specify by a notification in the Official Gazette, a person or class of persons who, the area or areas in which, the purpose or purposes for which, the source or sources from which, the foreign contribution shall be accepted and utilised only after obtaining its prior permission.

Clause 12.— This clause contains provisions relating to procedure for grant of certificate of registration. It provides that every application, for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and accompanied by such fee as may be specified in rules made by the Central Government. The Central Government shall, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application. If on receipt of an application for registration and after making such inquiry as the Central Government deems fit, it is satisfied that the applicant fulfils the requirements mentioned in items (a) to (g) of sub-clause (3) of this clause, it may register such person and grant him a certificate of registration or give prior permission subject to such terms and conditions as it may deem fit. The conditions in said clauses (a) to (g) of said sub-clause (3), inter alia, provides that the acceptance of foreign contribution by the person is not likely to affect prejudicially (i) the sovereignty and integrity of India; or (ii) the security, strategy, scientific or economic interest of the State; or (iii) the public interest; or (iv) freedom or fairness of election to any Legislature; or (v) friendly relation with any foreign State; or (vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities and the acceptance of foreign contribution, shall not lead to incitement of an offence; or shall not endanger the life or physical safety of any person.

This clause also provides that where the Central Government refuses registration or does not give prior permission, it shall record the reasons for such refusal or for not giving of prior permission and furnish a copy thereof to the applicant. However, the Central
Government may not communicate the reasons for refusal or giving of prior permission to the applicant under this clause in cases where there is no obligation to give any information or papers under the Right to Information Act, 2005. The certificate of registration shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

Clause 13.— This clause contains provisions relating to suspension of certificate of registration. The clause confers power upon the Central Government to suspend the certificate of registration up to one hundred and eighty days, as may be specified in the order. Every person whose certificate has been suspended shall not receive any foreign contribution during the period of the suspension of the certificate and shall utilise the foreign contribution in his custody with the prior approval of the Central Government. However, the Central Government, on an application made by such person, may allow receipt of any foreign contribution on such terms and conditions as it may specify.

Clause 14.— This clause contains provisions relating to cancellation of certificate of registration. The Central Government, may, if it is satisfied, after making such inquiry as it may deem fit, by order, cancel the certificate if the holder of the certificate has made a statement in the application for the grant of certificate or renewal thereof, which is incorrect or false; or violated any of the terms and conditions of the certificate or renewal thereof; or violated any of the provisions of proposed legislation or rules or order made thereunder. No order of cancellation of certificate shall be made unless the person concerned has been given a reasonable opportunity of being heard. Any person whose certificate has been cancelled shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

Clause 15.— This clause contains provisions relating to management of foreign contribution of every person whose certificate has been cancelled. It provides that the foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled shall vest in such authority as may be specified by rules made by the Central Government. The authority may, if it considers necessary and in public interest, manage the activities of the person and such authority may utilise the foreign contribution or dispose of the assets created of it in case adequate funds are not available for running such activity. The authority referred to in sub-clause (l) of this clause shall return the foreign contribution and the assets vested upon it under that sub-clause to the person referred to in the said sub-clause if such person is subsequently registered under this Act.

Clause 16.— This clause contains provisions relating to renewal of certificate. It provides that every person who has been granted a certificate of registration shall renew his certificate within six months before the expiry of the period of the certificate. The application for renewal of certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed. The Central Government may renew the certificate of registration subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years. The Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of proposed legislation or the rules made thereunder.

Clause 17.— This clause contains provisions relating to foreign contribution through scheduled bank. It provides that every person who has been granted a certificate or given prior permission under clause 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate. However, such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him. No funds other than foreign contribution shall be received or deposited in such account or accounts.

This clause also provides that every bank or authorised person in foreign exchange
shall report to such authority as may be specified, (a) the amount of foreign remittance; (b) the source and manner in which the foreign contribution was received; and (c) other particulars, in such form and manner as may be specified by rules made by the Central Government.

Clause 18 — This clause contains provisions relating to giving of intimation to the Central Government, and such other authority as may be specified by the Central Government. Every person who has been granted a certificate of registration or given prior approval under the proposed legislation shall give an intimation, within such time and in such manner as may be prescribed, to the Central Government, and such other authority as may be specified by the Central Government giving details of the amount of each foreign contribution received by him, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

It further provides that every person receiving contribution shall submit a copy of a statement duly certified by officer of the bank or authorised person in foreign exchange to the Central Government along with the intimation under section 18.

Clause 19.— This clause contains provisions relating to maintenance of accounts by every person who has been granted a certificate of registration or given prior permission under the proposed legislation. Every such person shall maintain, in such form and manner as may be prescribed, an account of any foreign contribution received by him and a record as to the manner in which such contribution has been utilised by him.

Clause 20.— This clause contains provisions relating to audit of accounts. It provides that where any person who has been granted a certificate of registration or given prior permission fails to furnish any intimation under the proposed legislation within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of proposed legislation has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour before sunset and after sunrise, for the purpose of auditing the said books of account. Any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of the proposed legislation.

Clause 21.— This clause contains provisions relating to intimation by candidate for election. This clause requires every candidate for elections, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, to give, within such time and in such manner as may be prescribed, an intimation to the Central Government or the prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Clause 22.— This clause contains provisions relating to disposal of assets treated out of foreign contribution. This clause provides that where any person who was permitted to accept foreign contribution, ceases to exist or has become defunct, all the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force and in the absence of any such law, the Central Government may, having regard to the nature of assets created out of foreign contribution received under the proposed legislation, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

Clause 23.— This clause contains provisions relating to inspection of accounts or records. It provides that if the Central Government suspect on the ground that any provision
of the proposed legislation has been or is being, contravened by (a) any political party; or (b) any person, or (c) any organisation, or (d) any association, it may authorise such gazetted officer holding a Group A post under the Central Government or such other officer or authority or organisation as it may think fit to inspect any account or record maintained by such political party, person, organisations or association, as the case may be, and thereupon every such authorised officer shall have the right to enter in or upon any premises for the purpose of inspecting the said account or record.

Clause 24.—This clause contains provisions relating to seizure of accounts or records. It provides that if, after inspection of an account or record, the authorised officer has any reasonable cause to believe that any provision of proposed legislation or of any other law relating to foreign exchange has been, or is being contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention. However, the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

Clause 25.—This clause contains provisions relating to seizure of article or currency or security received in contravention of the proposed legislation. It provides that if any gazetted officer, authorised in this behalf by the Central Government, has any reason to believe that any person has in his possession or control any article exceeding the value specified, or currency or security whether Indian or foreign, in relation to which any provision of the proposed legislation has been or is being, contravened, he may seize such article or currency or security.

Clause 26.—This clause contains provisions relating to disposal of seized article or currency or security. It provides that the Central Government may, having regard to the value of article or currency or security, their vulnerability to the theft or any other relevant consideration, by notification, specify such article or currency or security which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure specified in the said clause.

Clause 27.—This clause provides that the provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under the proposed legislation.

Clause 28.—This clause contains provisions relating to confiscation of article or currency or security obtained in contravention of the proposed legislation. Any article or currency or security which is seized under clause 25 shall be liable to confiscation if such article or currency or security has been adjudged under clause 29 to have been received or obtained in contravention of the proposed legislation.

Clause 29.—This clause contains provisions relating to adjudication of confiscation. Any confiscation referred to in clause 28 may be adjudged without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Clause 30.—This clause contains provisions relating to procedure for confiscation. This clause provides that no order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

Clause 31.—This clause contains provisions relating to appeal. This clause, *inter alia*, provides that any person aggrieved by any order made under clause 29 may prefer an appeal, where the order has been made by the Court of Session, to the High Court to which such Court is subordinate or where the order has been made by any officer specified under sub-clause (b) of clause 29, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made.
Clause 32.— This clause contains provisions relating to revision of orders by the Central Government. This clause, *inter alia*, provides that the Central Government, may, either of its own motion or on an application for revision by the person registered under the proposed legislation, for revision, call for the record of any proceeding in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of proposed legislation, may pass such order thereon as it thinks fit. The Central Government shall not of its own motion revise any order under this clause if the order has been made more than one year previously. In the case of an application for revision under this section by the person referred to in sub-clause (1), the application must be made within one year from the date on which the order was communicated to him or the date on which he otherwise came to know of it, whichever is earlier. However, the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period. The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal. Every application by such person for revision under this clause shall be accompanied by such fee, as may be prescribed.

Clause 33.— This clause provides for punishment for making of false statement, declaration or delivering false accounts. It provides that any person, subject to the provisions of the proposed legislation, who knowingly, (a) gives a false intimation under clause 9 or clause 18; or (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact, shall, on conviction by a court, be liable to imprisonment for a term which may extend to three years or with fine or with both.

Clause 34.— This clause provides for penalty for article or currency or security obtained in contravention of clause 10. It provides that if any person, on whom any prohibitory order has been served under clause 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both. The court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

Clause 35.— This clause provides punishment for contravention of any provision of the proposed legislation. It provides that whoever accepts, or assists any person, political party or organisation in accepting any foreign contribution or any currency or security from a foreign source in contravention of any provision of the proposed legislation or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Clause 36.— This clause confers power upon the court to impose additional fine where article or currency or security is not available for confiscation.

Clause 37.— This clause provides for penalty for offences where no separate punishment has been provided under the proposed legislation.

Clause 38.— This clause prohibits acceptance of foreign contribution for a period of three years by any person in case of second or subsequent conviction under the proposed legislation.

Clause 39.— This clause contains provisions relating to offences by companies. Where an offence under the proposed legislation or any rule or order made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the
offence and shall be liable to be proceeded against and punished accordingly. However, such person shall not be liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

It further provides that where an offence under the proposed legislation or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Clause 40.—This clause contains provisions relating to bar on prosecution of offences under the proposed legislation. It provides that no court shall take cognizance of any offence under the proposed legislation, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

Clause 41.—This clause contains provisions relating to certain offences. It provides that any offence punishable under the proposed legislation (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be, notwithstanding anything contained in the Code of Criminal Procedure, 1973, compounded by such officers or authorities and for such amount as the Central Government may, by notification in the Official Gazette, specify in this behalf.

It further provides that no offence shall be compounded if such offence is committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this clause. It also provides that where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

It also provides that every officer or authority referred to in sub-clause (1) of this clause while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of proposed legislation which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

Clause 42.—This clause confers power upon the inspecting officer referred to in clause 23 to call for information or require any person to produce or deliver any document as he thinks useful or relevant to the inspection under the proposed legislation. It also confers power upon the said officer to examine any person acquainted with the facts and circumstances of the case.

Clause 43.—This clause provides that any offence punishable under the proposed legislation may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

Clause 44.—This clause requires that the prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed.

Clause 45.—This clause protects the action taken in good faith by the Central Government or the prescribed authority or any of its officers. It provides that no suit or other legal proceedings shall lie against the Central Government or the prescribed authority or any of its officers in respect of any loss or damage caused or likely to be caused by
anything which is in good faith done or intended to be done in pursuance of the provisions of proposed legislation or any rule or order made thereunder.

Clause 46.—This clause confers power upon the Central Government to give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of the proposed legislation.

Clause 47.—This clause contains provisions relating to delegation of powers. It provides that the Central Government may, by notification, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under the proposed legislation (except the power to make rules) as it may deem necessary to such authority as may be specified.

Clause 48.—This clause confers power upon the Central Government to make rules for carrying out the provisions of the proposed legislation, and in particular for matters specified in sub-clause (2) of the said clause.

Clause 49.—This clause requires laying of orders made under clause 5 and the rules made under the proposed legislation before each House of Parliament.

Clause 50.—This clause confers power upon the Central Government to grant exemption in certain cases. It provides that if the Central Government is of the opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of the proposed legislation and may, as often as may be necessary, revoke or modify such order.

Clause 51.—This clause provides that the provisions of the proposed legislation shall not apply to any transaction between the Government of India and the Government of any foreign country or territory.

Clause 52.—This clause provides that the provisions of the proposed legislation shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Clause 53.—This clause confers power upon the Central Government to remove difficulties arising in giving effect to the proposed legislation. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the proposed legislation as may appear to be necessary for removing the difficulty. However, no order shall be made under this clause after the expiry of two years from the commencement of the proposed legislation. Every order made shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 54.—This clause proposes to repeal the Foreign Contribution (Regulation) Act, 1976 and save certain matters specified in sub-clause (2) of the said clause.
MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (I) of clause 5 of the Bill confers power upon the Central Government to issue orders to specify the organisation referred to in the clause as an organisation of a political nature not being a political party referred to in clause 3(I).

2. Clause 48 of the Bill confers power upon the Central Government to make rules for carrying out the provisions of the proposed legislation. The matters in respect of which rules may be made relate, inter alia, to, the value of the article and the authority which may be specified under clause 2(I); acceptance or retention of gift or presentation under clause 4; ground or grounds on which an organisation may be specified as an organisation of political nature under clause 5(2); the manner in which the administrative expenses shall be calculated under clause 8(2); the time within which and manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under clause 9; the time within which and manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause 9; the manner in which the copy of the order of the Central Government shall be served upon any person under clause 10; the form and manner in which the application for grant of certificate of registration or giving of prior permission and fee therefor under clause 12(I); the terms and conditions for granting a certificate or giving prior permission under clause 12(3); the manner of utilising the foreign contribution under clause 13(2); the authority with whom the foreign contribution to be vested under clause 15(I); the period within which and the manner in which the foreign contribution shall be managed under clause 15(2); the form and manner in which the application for renewal of certificate of registration shall be made and the fees therefor under clause 16(2); the form and manner in which the foreign remittance received in any of the accounts of the bank or authorised person in foreign exchange which shall be reported under clause 17(2); the time within which and the manner in which the person who has been granted certificate of registration or given prior permission shall give intimation under clause 18; the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under clause 19; the time within which and manner in which a candidate for election shall give intimation under clause 21; the manner and procedure to be followed in disposing of the assets under clause 22; the limits subject to which any confiscation may be adjudged under clause 29(I); the fee to be accompanied along with every application for revision under clause 32(5); the form and manner for making of an application for compounding of an offence and the fees therefor under clause 41(4); the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under clause 44; any other matter which is required to be, or may be, prescribed.

3. The matters in respect of which orders may be issued and the rules may be made by the Central Government are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.
A BILL
to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

(Shri Shivraj Vishwanath Patil, Minister of Home Affairs)