



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

छठी मंजिल, 'बी' विंग, लोक नायक भवन
खान मार्केट, नई दिल्ली-110003

6th Floor, 'B' Wing, Lok Nayak Bhawan
Khan Market, New Delhi-110 003

Dated ..02.01.2013.....

No. Policy/09/Service/Panchayatiraj/2012/RU-II

To

- 1) Dr.Rameshwar Oraon, Chairperson
- 2) Smt. K.Kamala Kumari, Member
- 3) Shri Bheru Lal Meena, Member

Subject: Draft Note of the Cabinet for amendments in the Sixth Schedule to the Constitution of India for implementation of MOS signed with United Peoples Democratic Solidarity (UPDS) and Factions of Dima Haram Daogah (DHD) in Assam also extension of certain features of Panchayati Raj system to the sixth Schedule Area

Sir,

I am to Circulate a copy of the letter No. 18014/1/2012-C&LM-II dated 20/12/2012 received from Ms. Namita Priyadarshee, Director, Govt of India, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi- 110001 addressed to this Commission on the subject mentioned above.

It is requested that comments/suggestions on the Draft Note may kindly be sent for discussion in the forthcoming meeting of the Commission.

Yours faithfully,

(M.S.Chopra)
Director

Copy for information:-

- 1) PPS to Joint Secretary
- 2) Director (MSC)
- 3) Dy. Director K.D.B (RU-III & IV)
- 4) Consultant (RCD)
- 5) SSA (NIC)
- 6) AD (Coord)

(M.S.Chopra)
Director

F. No. 18014/1/2012-C&LM-II

Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi-01
Dated: 20th December, 2012

To,
The Joint Secretary,
National Commission for Scheduled Tribes,
6th Floor, Lok Nayak Bhawan,
New Delhi-03.

Subject: Draft Note for the Cabinet for amendments in the Sixth Schedule to the Constitution of India for implementation of MOS signed with United Peoples Democratic Solidarity (UPDS) and Factions of Dima Halam Daogah (DHD) in Assam and also extension of certain features of Panchayati Raj System to the Sixth Schedule Area for ensuring democracy at the grass root level and smooth functioning of the councils

Sir,

I am directed to enclose a copy of the Ministry of Home Affairs D.O. letter No. 11012/120/2009-NE-IV dated 6-12-2012 along with "draft Note for the Cabinet for amendments in the Sixth Schedule to the Constitution of India for implementation of MOS signed with United Peoples Democratic Solidarity (UPDS) and Factions of Dima Halam Daogah (DHD) in Assam and also extension of certain features of Panchayati Raj System to the Sixth Schedule Area for ensuring democracy at the grass root level and smooth functioning of the councils", which is self explanatory.

The National Commission for Scheduled Tribes is requested to furnish their comments in the matter to this Ministry at the earliest, for forwarding this Ministry's comments to the Ministry of Home Affairs.

Yours faithfully,

(Namita Priyadarshee)
Director
Ph No: 23073176.

Copy for information to:

Shri Shambhu Singh, Joint Secretary (NE), Ministry of Home Affairs, North Block, New Delhi-01 w.r.t. your D.O. letter No. 11012/120/2009-NE-IV dated 6-12-2012



SHAMBHU SINGH
JOINT SECRETARY (NE)
Tel. No. 2309 4648

गृह मंत्रालय
भारत सरकार
नार्थ ब्लॉक, नई दिल्ली - 110001
MINISTRY OF TRIBAL AFFAIRS
GOVERNMENT OF INDIA
NORTH BLOCK, NEW DELHI - 110001

DO No.11012/120/2009-NE-IV

New Delhi, 6th December 2012

Dear *[Handwritten Name]*

This is regarding amendments in the Sixth Schedule to the Constitution of India for strengthening the councils set up in the States of Assam, Meghalaya, Mizoram and Tripura. It is pointed out that after the 73rd and 74th Constitutional amendments large scale administrative and financial powers have been delegated to local bodies constituted all over the country except the Sixth Schedule areas. It has been noticed that financial and administrative autonomy to the local bodies/Panchayati Raj Institutions in other parts of the country have become much greater than those in the Sixth Schedule areas. It is also in the context that National Commission to Review the Working of the Constitution (NCRWC) and Administrative Reforms Commission have made certain recommendations for strengthening of Sixth Schedule areas.

2. In the year 1999, a proposal to amend the Sixth Schedule to the Constitution was sent to the concerned State Governments and autonomous councils for comments which could not reach logical conclusion. Further in November 2009, a Cabinet Note along with Draft Bill amending the Sixth Schedule was sent to the Central Ministries of Panchayati Raj, Tribal Affairs, Law & Justice, Rural Development and Deptt. of Expenditure and also Planning Commission for comments. Ministry of Tribal Affairs had sent its comments on the proposed changes in the Sixth Schedule (copy at Annexure I).

3. After signing of Memorandum of Settlements with UPDS and the factions of DHD in Assam as approved by Cabinet Committee on Political Affairs, Keeping in view the powers devolved to the Panchayati Raj Institutions after 73rd and 74th Constitutional amendments and recommendations made by NCRWC and ARC, a fresh comprehensive bill amending the Sixth Schedule and also amendments to the Article 280 (b) (c) of the Constitution has been prepared by this Ministry.

4. It is requested that comments of your Ministry/Department in consultation with National Commission for Schedule Tribes on Draft Cabinet Note along with Bill (Annexure II) amending the Sixth Schedule may kindly be sent to this Ministry within this month.

With regards,

Yours sincerely,

[Signature]
(Shambhu Singh)

Smt. Vibha Puri Das,
Secretary,
Ministry of Tribal Affairs
Krishi Bhawan, Dr. Rajendra Prasad Road,
New Delhi.

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Sh. Mishra

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F. No 18014/04/2009-C&LM II
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
Dated :- 18th August, 2010.

OFFICE MEMORANDUM

Subject :- Cabinet Note along with the draft Bill amending the Sixth Schedule to the Constitution extending certain features of Panchayati Raj Institutions (PRIs) to the Autonomous District Councils/Autonomous Councils.

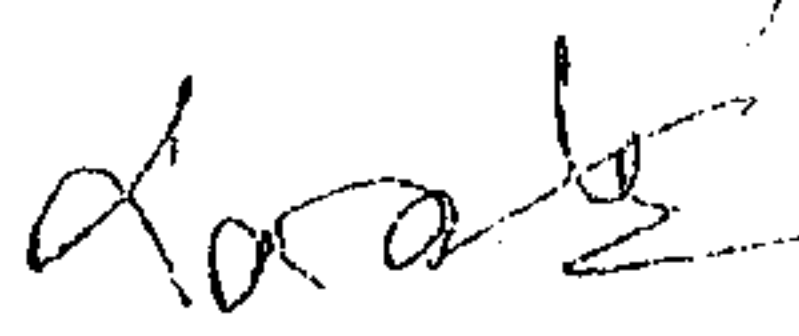
The undersigned is directed to refer to the Ministry of Home Affairs' OM No. 11012/11/2009. NE IV dated 30th July 2010 on the above subject and furnish the comments of the Ministry of Tribal Affairs' as under :-

- (i) Likely mis-match between hereditary traditional structures of North East Councils vis-a-vis the provisions of the 73rd and 74th Amendments will have to be addressed. Autonomous Councils are traditionally clan dominated and often the leadership is heritable. This Ministry is not sure as to how this fact will gel with the concept of the 73rd and 74th Amendments which rest on pillars of elections and adult suffrage. However, we support the need to have an administrative and financial structure with guidelines that would lay down the extent of autonomy of the Autonomous Councils. This is needed to remove any apprehension in the minds of North East State Governments that Councils, if given full autonomy, may act irresponsibly and with no accountability. This would also mean that prior to actual implementation of the proposed amendments, an exercise to raise the skills of the members of the Autonomous Councils and also to improve the level of administration in the Council areas have to be initiated.
- (ii) The administrative structure must include the involvement of the Central Ministries, either in the State level, or at the level of the Governor, to monitor and review the implementation of development/welfare schemes.
- (iii) In the context of direct funding from the Central Government to the Autonomous Councils, prior to actual implementation of the proposed amendments, an exercise to raise the skills of the members of the Autonomous Councils and also to improve the level of administration in the Council areas have to be initiated.

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(iv) Regarding enhancement of the funds being given to all the NE States under Article 275(1), it is suggested that the Planning Commission while examine the Annual Plan of the States could consider the issue of whether funds are actually reaching them on a timely basis.

2 This issues with the approval of Minister of Tribal Affairs.


(Dr. N.K. Ghatak)
Joint Director
Tel: 23383965

The Ministry of Home Affairs
(Attn: Sh. Ajay Kanoujia, Deputy Secretary (NE))
North Block, New Delhi

PH 23093586

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Ministry of Home Affairs

NOTE FOR THE CABINET

SUB: AMENDMENTS IN THE SIXTH SCHEDULE TO CONSTITUTION OF INDIA FOR IMPLEMENTATION OF MOS SIGNED WITH UNITED PEOPLES DEMOCRATIC SOLIDARITY (UPDS) AND FACTIONS OF DIMA HALAM DAOGAH (DHD) IN ASSAM AND ALSO EXTENSION OF CERTAIN FEATURES OF PANCHAYATI RAJ SYSTEM TO THE SIXTH SCHEDULE AREA FOR ENSURING DEMOCRACY AT THE GRASS ROOT LEVEL AND SMOOTH FUNCTIONING OF THE COUNCILS.

BACKGROUND

1. The Cabinet Committee on Political Affairs (CCPA) in its meeting held in November, 2011 and October, 2012 had approved signing of Memorandum of Settlements (MoS) with UPDS and the factions of DHD on 25th November, 2011 and 8th October, 2012 respectively for enhancing autonomy of the existing Autonomous Councils set up under the Sixth Schedule to the Constitution of India and also special package for speedier socio-economic development of the council areas. The Ministry of Home Affairs has taken action in hand for implementation of various clauses of the MoS signed with UPDS and factions of DHD. Copies of the MoSs are enclosed at Annexure I. Following action as agreed in the MoS relating to amendments in the Sixth Schedule to the Constitution of India are as under:-

- (i) Renaming of existing Karbi Anglong Autonomous Council (KAAC) as the Karbi Anglong Autonomous Territorial Council (KAATC). Similarly, renaming of North Cachar Hills Autonomous Council (NCHAC) as Dima Hasao Autonomous Territorial Council (DHATC).
- (ii) It was interalia provided in the MoS that the proposed KAATC shall have 50 members (44 to be elected and 6 nominated by the Governor of Assam) against existing No. of 30 members in the Council. In case of proposed DHATC, it has been agreed to increase number of members from the existing 27 to 40 members (36 elected, 4 nominated). Effect of increase of members in the council will be given from the next election to the councils due in the year 2016 and 2017 respectively or mid term poll, if any.

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- (iii) Conducting elections to the councils by State Election Commission and also setting up of a body like State Finance Commission.
- (iv) Transfer of additional 39 subjects from Assam State Government to the councils under paragraph 3A of the Sixth Schedule of the Constitution as agreed in the MoS devolving legislative and executive powers.

2. It is mentioned that the Sixth Schedule has relationship with Articles 244(2) and 275(1) of the Constitution. The Schedule contains provisions as to the administration of Tribal areas in the State of Assam, Meghalaya, Tripura and Mizoram. Clause (2) of Article 244 provides that the provisions of the Sixth Schedule shall apply to the administration of the Tribal Areas in the above-mentioned States. Autonomous District Councils/Autonomous Councils set up under Sixth Schedule to the Constitution of India enjoy Legislative, Executive, Judicial and financial powers to manage their affairs and protect tribal culture, customs and under take development for them. A note indicating powers delegated to ADCs and its functioning is placed at Annexure.II.

3. It is pointed out that the 73rd and 74th Amendments to the Constitution (which are not applicable to the Sixth Schedule Areas) brought in considerable devolution of powers to local bodies in the rest of the country, in some areas the Councils in the Sixth Schedule areas are less empowered than the Panchayati Raj Institutions elsewhere.

4. A review of the Sixth Schedule Constitution provisions and provisions of the 73rd and 74th amendments brings out certain deficiencies in the provisions included in the Sixth Schedule. These are:-

- i. Establishment of Village Councils is not mandatory in the Sixth schedule Areas, where they exist, the village level councils do not have Constitutional protection for election on the basis of universal adult suffrage and tenure.

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- ii. The recommendation of the Finance Commission to provide separate fund for the ADCs in Sixth Schedule areas on the pattern of Panchayati Raj Institutions, which will ensure adequate funds for socio-economic infrastructure for the ADCs.
 - iii. In the absence of a body like the State Finance Commission, the Councils are left at the mercy of the State Government. Most of the District Councils have complained that the funds released to them are extremely inadequate, or there is inordinate delay in their release.
 - iv. There is no Constitutional provision for reservation for women in the Councils of Sixth Schedule areas.
5. These ADCs/ACs are not getting adequate funds for meeting their non-plan requirements. They have been requesting for:
- i. Direct funding from Central Government to ADCs for plan and non plan projects and also for centrally sponsored scheme (Presently the funds are being routed through the state Government and in several cases they do not reach the areas covered by the ADCs). They are advancing arguments that States which are smaller in terms of area and population in comparison to the area of some of the councils are getting higher allocation per capita.
 - ii. Central assistance under Article 275 of the Constitution of India for the development of the tribal areas need to be enhanced. Separate budget for ADCs/ACs needs to be provided in the State Plan budget to be finalized by the Planning Commission.
6. CCPA in its meeting held on 1.12.2005 also had given directions for conducting a study for recommending improvement in the quality of services being rendered by the Sixth Schedule Councils for submission to the Cabinet in a time bound manner. The Ministry of Tribal Affairs had assigned the task to the North Eastern Hills University (NEHU). NEHU submitted its report and brought out some factual positions on the ground.

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7. National Commission to Review the Working of Constitution (NCRWC) made certain recommendations vide its recommendation No. 9.23 (i) to (iii) to devolve political powers with precautions to maintain traditional institutions in Sixth Schedule areas. It also recommended entrustment of subjects enumerated in Eleventh and Twelfth Schedule (already given to Panchayati Raj Institutions) to the councils set up under the Sixth Schedule to the Constitution for their administration, evolving a process of central funding for Plan expenditure to the council directly instead of routing all funds through the State Governments, safeguards for minority and micro minority, protection of their traditions and also bringing in gender representation etc. It has been recommended that positive democratic elements like gender justice and adult franchise should be built into these institutions to make them broader based and capable of dealing with a changing world. The implementation of centrally funded projects from various departments of the Union Government should be entrusted to the Automatic District Councils (ADCs) and to revive Village Councils with strict audit by the Comptroller and Auditor General of India. These recommendations have been accepted by the Government for implementation (Extract of the recommendations is attached at Annexure III).

8. The second Administrative Reforms Commission (ARC) in its seventh report (February, 2008) entitled 'Capacity building for Conflict Resolution' has especially dealt with 'Conflicts in the North East (NE). The commission has interalia focused on Autonomous District Councils. The recommendations made by the ARC include setting up of a State Finance Commission for distribution of funds between the State and the Council and also setting up of State Election Commission as provided in the Panchayati Raj System for conducting election to the councils, resolving conflict between Autonomous District Councils and State of Meghalaya, discretionary powers to Governors without having to act on advice of the Council of Ministers on all issues relating to Councils, amending paragraph 14 of the 6th Schedule for appointment of Common Commission by Union Government for all ADCs for assessing their state of administration, establishing village councils with adequate powers, codification of traditional laws, incorporating provisions which

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currently occur as foot notes in the main text of the 6th Schedule, implementation of NCRWC recommendations para 9.23 (please refer para 7 of this note). Allocation of funds to District Councils should be based on normative and transparent considerations. These allocations should be budgeted in detail and released in agreed installments during the financial year. The Union Government would also need to take similar action with regard to Centrally sponsored scheme being implemented in these areas. Directly elected village level representative bodies will need to be constituted and adequately empowered in Autonomous Hills Councils areas of Meghalaya. An extract of the recommendations made by ARC is at **Annexure IV.**

9. The Ministry of Panchayati Raj had earlier appointed an Expert Committee headed by Shri V. Ramachandran (an ARC member) for decentralized planning under the Sixth schedule, which submitted its report in September, 2007. The major policy issue of self-governance dealt by the Committee are naturally subsumed in ARC recommendations.

10. The Government of Mizoram had recommended direct funding from central government to the Autonomous Councils in the State. In view of the recommendations made by the State Government of Mizoram for direct funding, autonomous councils in Mizoram are insisting for direct funding of central funds. Councils in Assam are also demanding direct funding from the Central Government. In this connection, a draft CCPA note was prepared and circulated to the concerned Ministries for their comments. The Ministry of Finance had not favoured direct funding from the Central Government to the autonomous councils. The matter was further examined in the Ministry and it was found that direct funding of the Councils would be ultra vires of the Constitution as the Centre, State financial relations are governed by the Article 266 which provides for transfer of funds only between the Consolidated Fund of India and the Consolidated Funds of the respective States. Further, it impinges on the delicate Centre - State relations. Hence, the said proposal was not pursued.

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11. It is worthwhile to mention that in the Memorandum of Settlements signed with UPDS and DHD, it has been agreed that both the Government of India and the Government of Assam will consider the case for higher fund allocation to the councils to undertake vital developmental activity within their jurisdiction.

AMENDMENTS PROPOSED IN THE SIXTH SCHEDULE TO CONSTITUTION OF INDIA

12. In order to implement Memorandum of Settlements signed with UPDS and DHD as approved by CCPA and also keeping in view the recommendations made by the NCRWC and ARC and other factors, it is proposed to amend the Sixth Schedule to the Constitution of India for strengthening of democratic process in the Sixth Schedule areas at par with the Panchayati Raj Institutions. These amendments are largely based on the inter-Ministerial discussions as well as preliminary discussion with the State Governments and the Autonomous District Councils. It is mentioned that the intention of the proposal is not to dilute the existing provisions/powers of the Sixth Schedule areas or to withdraw any power granted under Sixth Schedule to the ADCs/ACs nor to propose dilution of the authority of the State Governments. The salient features of the proposal are as follows:-

- i. As approved by CCPA, renaming of existing KAAC and NCHAC as KAATC and DHATC and also increase in number of seats in the Councils, transfer of additional 39 subject, setting up of Village Councils, State Finance Commission and holding of elections by the State Election Commission (please refer para I of this note).
- ii. Mandatory Village Councils/Village Development Board and Election to the Village Council, Regional Councils and District Councils in all Sixth Schedule areas and also provisions of an anti-defection law.
- iii. Extension of the provisions of the 73rd Amendments Act. Supplementing the existing powers so that additional powers and subject included under the Schedule Eleven to the Constitution could be devolved to the ADCs/ACs under paragraph 6 of the Sixth Schedule;

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- iv. Extension of the provisions of the 74th Amendment Act. Supplementing the existing powers so that additional powers and subject included under the Schedule Twelve to the Constitution could be devolved under para 6 to the ADCs/ACs -setting up of municipal councils and election there to
- v. Article 280(3)(bb) of the Constitution of India needs to be amended ensuring measures needed to augment the Consolidated Fund of respective States to supplement the resources of the Sixth Schedule Council in the State on the basis of the recommendations made by the Finance Commission of India. Setting up of an independent body like the State Finance Commission by the State Government on the lines of Panchayati Raj lines institutions.
- vi. While proposal for direct funding from the Central Government to the Councils is not possible, a mechanism need to be put in place by the Ministry of Finance for timely transfer of plan and non plan funds as well as funds under Centrally sponsored schemes to the councils through State Government, so that, grievances of the councils could be addressed. Separate budget for ADCs/ACs be provided in the State Plan Budget to be finalized by Planning Commission/Ministry of Finance. Besides, central assistance under Article 275 of the Constitution of India needs to be enhanced for Sixth Schedule areas. Funding pattern also needs to be made transparent.
- vii. Administrative and financial control and effective mechanism for audit of accounts of the councils;
- viii. Adequate reservation for women in the Councils constituted under the Sixth Schedule;
- ix. Exercising discretionary powers already devolved to the Governor of Assam, Maghalaya, Mizoram and Tripura and also submitting a monthly report to the President by the Governor on the administration of Sixth Schedule areas. A suitable provision needs to be made for setting up of common commission by the President to assess the state of administration in the Sixth Schedule.
- x. As per recommendations by ARC, Ministry of Law will be requested to incorporate provisions which currently occur as foot note in the main text of the Sixth Schedule.

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xi. State Government/Councils would be requested to initiate action for codification of traditional laws.

12.1. Draft bills amending the Sixth schedule on the above lines as well as Article 280 of the Constitution of India are placed at Annexure.V & VI respectively.

APPROVAL SOLICITED

13. Approval of the Cabinet for the amendments in the Sixth schedule to Constitution of India as proposed in the para. 12 of this note

14. The Ministries of Law and Justice (Department of Legal Affairs and Legislative Department), Panchayati Raj, Rural Development Finance and Planning Commission have been consulted and their views have been reflected in the note (To be added).

15. Copy of the Bills to be drafted/vetted by Ministry of Law (Legislative Department) is at Annexure V and VI.

16. Implementation schedule and Statement of Equity, Public Accountability and Innovation are placed at Appendix. I & II respectively.

17. This note has been seen and approved by the Union Home Minister.

(Shambhu Singh)
Joint Secretary to the Government of India

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STATEMENT OF IMPLEMENTATION SCHEDULE

SUBJECT:- AMENDMENTS IN THE SIXTH SCHEDULE TO CONSTITUTION OF INDIA FOR IMPLEMENTATION OF MOS SIGNED WITH UNITED PEOPLES DEMOCRATIC SOLIDARITY (UPDS) AND FACTIONS OF DIMA HALAM DAOGAH (DHD) IN ASSAM AND ALSO EXTENSION OF CERTAIN FEATURES OF PANCHAYATI RAJ SYSTEM TO THE SIXTH SCHEDULE AREA FOR ENSURING DEMOCRACY AT THE GRASS ROOT LEVEL AND SMOOTH FUNCTIONING OF THE COUNCILS.

Sl. No.	Gist of decision	Project benefit/results	Time Schedule for implementation
1	Approval of the Cabinet is solicited to the proposal made in the para 12 of this note.	<ol style="list-style-type: none"> 1. Implementation of proposal already approved by CCPA in regarding MoS signed with UPDS and DHD. 2. Enhancing autonomy to the councils set up under the Sixth schedule to the Constitution of India would be granted to some extent at par with Panchayati Raj system in Assam, Meghalaya, Tripura and Mizoram. 3. Democratization of Local Institutions in the councils area. 4. Financial autonomy to the councils; 5. Effective role of Governor and Central Government in the Councils. 	After seeking approval of the Cabinet a bill will be introduced in the Parliament within three months.

(SHAMBHU SINGH)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

File No. 11012/120/2009-NE.IV Dated: December 2012

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APPENDIX II

STATEMENT OF EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

SUBJECT: AMENDMENTS IN THE SIXTH SCHEDULE TO CONSTITUTION OF INDIA FOR IMPLEMENTATION OF MOS SIGNED WITH UNITED PEOPLES DEMOCRATIC SOLIDARITY (UPDS) AND FACTIONS OF DIMA HALAM DAOGAH (DHD) IN ASSAM AND ALSO EXTENSION OF CERTAIN FEATURES OF PANCHAYATI RAJ SYSTEM TO THE SIXTH SCHEDULE AREA FOR ENSURING DEMOCRACY AT THE GRASS ROOT LEVEL AND SMOOTH FUNCTIONING OF THE COUNCILS.

Sl.No.	The required goal	How does the proposal advances the goal
1.	Equity and inclusiveness	Tribes in Councils set up under the Sixth Schedule would get a self-governing body to accelerate their socio-economic and educational development on the lines of Panchayati Raj Institutions.
2.	Public Accountability	The existing accountability measures in respect of Autonomous Councils set up under the Sixth Schedule would be strengthened.
3.	Innovation	Deepening of democratic process at the grass root level in the Council area and also smooth funding from Government to the Council for various socio-economic, educational, cultural development in the backward area.

SHAMBHU SINGH
Joint Secretary to the Government of India

F.No.11012/120/2009-NE.IV

New Delhi Dated: December, 2012

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ANNEXURE.I

Note on Autonomous Councils/Autonomous District Councils set up under the Sixth Schedule to the Constitution of India.

At present, the following Autonomous Councils/ District Councils are constituted under the Sixth Schedule to the Constitution of India:

Assam

- i) Karbi Anglong Autonomous Council (KAAC)
- ii) North Cachar Hills Autonomous Council (NCHAC)
- iii) Bodoland Territorial Council (BTC)

Meghalaya

- iv) Khasi Autonomous District Council (KADC)
- v) Jaintiya Autonomous District Council (JADC)
- vi) Garo Autonomous District Council (GADC)

Tripura

- vii) Tripura Tribal Areas Autonomous District Council (TTAADC)

Mizoram

- viii) Lai Autonomous District Council (LADC)
- ix) Mara Autonomous District Council (MADC)
- x) Chakma Autonomous District Council (CADC)

2. The entire philosophy of the Sixth schedule of the Constitution is aimed at protection of the tribal areas and interests, by constitutionally mandating district or Regional local self government institutions for them. These institutions are entrusted with the twin task of protecting tribal culture and customs and undertake development for them. Powers and functions of the ADCs, executive powers, administration of Justice and Finance are summarized briefly in the succeeding paragraphs.

Powers and Functions of the ADCs

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2.1 The autonomous district councils under the Sixth Schedule have been vested with some executive, legislative, judicial and financial powers to operate as organs of self-government. The law-making powers of the ADC pertain to the following subjects:

- a) Allotment, occupation and use of land other than the reserve forest;
- b) Management of forest excepting the reserve forests;
- c) Use of canal or any water course for irrigation;
- d) Regulation of the practices of shifting cultivation;
- e) Establishment of village and town committees;
- f) Appointment and succession of chiefs and/or headmen;
- g) Inheritance of property, marriage and divorce;
- h) Social customs and regulation and control of money lending and trading by non-tribals.
- i) Village and town administration including police, public health and sanitation.

2.1.1 Karbi Anglong and N.C. Hills Autonomous Council have been given enhanced autonomy for law making powers on certain subject and addition 30 subject have been entrusted to these councils for administration by the State Government of Assam. In case of Bodoland Territorial Council 40 subjects have been entrusted to the Council alongwith law making powers on these subjects.

2.1.2 Governments of Mizoram and Tripura have also entrusted some subject to the ADCs for their administration.

2.1.3 No additional subjects have entrusted by the Government of Meghalaya to the ADCs.

EXECUTIVE POWERS

2.2 In the executive sphere, the district council may establish and manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways in the district and may make regulation with the

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approval of the Governor for their control. Besides, the Governor may with the consent of the district council, entrust to its officers the functions relating to agriculture, animal husbandry, community projects, cooperative societies, social welfare, village planning or any other matter to which the executive power of the State extends.

JUDICIAL POWERS

2.3 The district councils are authorized to make rules for administration of justice with the prior approval of the Governor regulating the constitution of village courts and the powers to be exercised by them; the procedure to be followed by the village council/courts in the trial of suits or cases and the procedure to be followed by district council or any court constituted by the Council in appeals and other proceedings. The district council or any court constituted on its behalf can exercise the powers of a court of appeal for all suits and cases tried by village council or courts constituted by ADCs. No other court except the High Court of that State and the Supreme Court of India have jurisdiction over such suits and cases.

FINANCIAL POWERS

2.4 In respect of finance, the Sixth Schedule Provides for the Constitution of a District Fund to which all the receipts shall be credited. The ADCs have the powers to assess and collect revenue on land, levy taxes on land and buildings and tolls. They are also authorized to levy and collect tax on profession, trade, callings and employment tax on animals, vehicles and boats; tax on entry of goods into a market; toll on passengers and goods transported; tax on maintenance of schools, dispensaries and roads. The ADCs also have the right of sharing the royalties accrued each year from licenses or leases for extraction of forest and minerals within the jurisdiction of ADCs as may be agreed upon by the State Government and the district council.

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ROLE OF GOVERNORS IN THE ADMINISTRATION OF DISTRICT COUNCILS

2.5 The Sixth schedule has entrusted several key powers of the Governor of the State concern in respect of District and Regional Councils. These powers are briefly powers to constitute district councils its dissolution, assume to himself all or any of the functions are powers of the district of regional councils on the recommendation of the commission by him, powers affecting electoral representation in the council area, giving prior assent to law, rules and regulation of the councils etc.

Memorandum of Settlement

1.1. The Government of India and the Government of Assam have been making persistent efforts to fulfill the legitimate aspirations of the people of Karbi Anglong regarding all-round development including preservation and promotion of their cultural identity and language, while concomitantly facilitating devolution of the developmental process to bring the fruits of education and economic development to the people. A number of initiatives both at the Government level and in collaboration with the concerned communities have been started from time to time with this objective.

1.2. As part of this process, several rounds of tripartite discussions were held with the representatives of the United People's Democratic Solidarity (UPDS). As a result of this consultative process, it has been agreed to initiate time bound steps to bring about greater devolution of power to the grass roots level in Karbi Anglong while ensuring increased capacity building for developmental activities at all levels.

1.3. The representatives of the UPDS shall abjure violence, in any manner, in furtherance of their objectives and shall join the peaceful democratic political process as established by the law of the land.

POLITICAL

2.1. A Committee, as envisaged in the Art.371B of the Constitution, in ~~the~~ the Assam Legislative Assembly will be constituted to deal with the matters relating to the 6th Schedule Councils. The 6th Schedule Councils

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will submit their Annual Report once a year to the Committee of the Assam Legislative Assembly along with a copy to the Governor. The Annual Report should also include the Audited Annual accounts of the preceding year, together with the observations and Action taken by the council on the comments of the Audit.

2.2. As part of the restructuring and empowerment process, the existing Karbi Anglong Autonomous Council (KAAC) will be renamed as the Karbi Anglong Autonomous Territorial Council (KAATC).

2.3. The State Government has agreed to re-organize the existing Autonomous district under the 6th Schedule of the Constitution into 4 (four) administrative districts for better administrative and developmental administration, as per procedure established by law.

2.4. The proposed KAATC will have 50 Member Council to give greater representation to people living in remote and isolated clusters of villages. Of these, 50 members, 44 to be elected and 6 to be nominated by the Governor of Assam. (Increase in seats shall be applicable from subsequent elections due in the year 2016-17 or mid term poll, if any, whichever is earlier).

2.5. The responsibility of conducting elections to the KAATC will be entrusted to the State Election Commission.

2.6. Additional subjects, as listed below, will be transferred to the Council under para 3A of the 6th schedule of the Constitution conferring legislative powers on the council in respect of these subjects so as to empower the council with legislative and executive powers in respect of these subjects:

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1. Animal Husbandry & Veterinary. Preservation, Protection and improvement of stock and prevention of animal diseases, veterinary training and practice; and Cattle Pounds.
2. Forest (other than reserved forest)
3. P.W.D.
4. Sericulture
5. Education:
 - (a) Primary & Secondary Education.
 - (b) Higher Secondary including vocational training.
 - (c) Adult Education.
 - (d) College Education (General)
6. Cultural Affairs.
7. Soil Conservation.
8. Co-operation.
9. Fisheries.
10. Panchayat and Rural Development including DRDA.
11. Handloom & Textile.
12. Health & Family Welfare. Public Health and Sanitation, hospitals and dispensaries.
13. Public Health Engineering, Water supply and Water Storage. Water power upto 5 Mega Watt , subject to the provisions of entry 56 of List I of the Seventh Schedule
14. Irrigation & Minor Irrigation, Canals, drainage and embankments.
15. Social Welfare
16. Sports & Youth Welfare.

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17. Weight & Measure, subject to provisions of entry 50 of list I of the seventh schedule.
18. Food & Civil Supplies.
19. Agriculture, including agricultural education & research, protection against pest & prevention of plant disease.
20. Publicity and Public Relation.
21. Printing & Stationery.
22. Tourism.
23. Urban Development- Town and Country Planning.
24. Tribal Research Institute, controlled and financed by the State Government.
25. Land & Revenue, Land Reforms.
26. Planning & Development.
27. Municipal Corporation, Improvement Trust, District Boards and other local authorities.
28. Welfare of Hill Tribes.
29. Markets and fairs.
30. Lotteries, subject to provisions of entry 40 of list I of the Seventh Schedule.
31. Statistics.
32. Intoxicating liquors, opium and derivatives, subject to provisions of entry 84 of list I of seventh Schedule.
33. Labour and employment.
34. Registration of Births and Deaths.

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35. Industries, subject to the provisions of entries 7 and 52 of list I of Seventh Schedule. Small, Cottage & rural Industry Trade and Commerce in, and the production, supply and distribution of Foodstuffs, Cattle fodder, raw cotton and raw jute.
36. Transport (roads, bridges, ferries and other means of communication not specified in List I, Municipal tramways, ropeways, inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles)
37. Flood control for protection of villages, paddy fields, markets, town etc. (not of technical nature).
38. Theatres and dramatic performances, entertainment and amusement. cinemas subject to the provisions of entry 60 of list I.
39. Libraries (Library services) museums and other similar institutions controlled or financed by the state, ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance.

2.7. Development functions and functionaries in respect of transferred subjects shall also be transferred to the KAATC.

3. KAATC

3.1. The Chief and the Deputy Chief of the KAATC shall have the status equivalent to the Cabinet Minister and the other executive council members equivalent to the Minister of State of Assam for protocol purposes within the jurisdiction of the KAATC. Similarly, the Chairman and Deputy Chairman of KAATC shall have the status equivalent to the Speaker and Deputy Speaker of the Assam Legislative Assembly respectively for protocol purposes within the jurisdiction of KAATC.

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3.2. The KAATC authority shall have full control, consistent with the relevant Service Rules, over the officers and staff concerned with the transferred subjects working and placed under the jurisdiction of the KAATC. ACRs of these officers shall also be written by the appropriate authority of the KAATC.

3.3. The authority of the KAATC shall be competent to make appointments to all posts under its control in accordance with the rules of appointment followed by the Governor of Assam. However, the posts, where recruitment is made on the recommendation of APSC shall not be covered under this provision. Vacancies in Class II and Class I rank officers create impediments in effective delivery of services to the people. The State Government will make all efforts to fill these vacancies by placing the services of officers in the departments under the control of the KAATC. Special attention will be paid by the State Government for filling up vacancies in the Government College. No new post shall be created by KAATC without concurrence of the Government of Assam.

3.4. The State Government will encadre posts of Grade I and Grade II under the KAATC expeditiously and streamline the process of filling the vacancies under the KAATC.

3.5. This will however, not include such cases where the vacancies have arisen because of general decision on grounds of austerity etc. in respect of abolition or keeping the posts temporarily vacant.

3.6. The KAATC authority may constitute a Selection Board for appointments to be made by it and may also make rules, with the approval of the Governor of Assam to regulate appointments and to

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ensure adequate representation for all communities living within its jurisdiction.

4. ORGANISATION RELATED

4.1. The UPDS shall dissolve itself as an organization within a reasonable time (six months) upon the signing of this Memorandum of Settlement (MoS) as a precursor to the Government initiating further process to implement the agreed decisions of this agreement.

4.2. The State Government shall provide full support to relief and rehabilitation of the members of the UPDS who have surrendered with arms in accordance with the existing policy of the State in this regard. Financial support in such cases shall be limited to the provisions of the relevant scheme prepared and funded by the Government of India. Vocational classes will be organized in the designated camps for the surrendered cadres of the UPDS. Special psychological counseling and career guidance classes will also be organized in the designated camps by the State Government to facilitate rehabilitation of the cadres. Withdrawal of cases against such persons and those related to over ground UPDS movement since 1999 shall be considered according to the existing policy of the State of Assam.

4.3. Criminal cases registered against members of the UPDS for non-heinous crime shall be withdrawn by the State Government as per procedure established by law. Criminal cases registered against members of the UPDS for heinous crimes shall be reviewed case by case according to the existing policy on the subject and wherever

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feasible, steps for withdrawal of such cases will be initiated by the State Government.

5. DEVELOPMENT

5.1. Concerted efforts will be made⁴ by the Government of India and State Government of Assam in collaboration with the KAATC to improve the level of general and technical education including medical education. An Engineering College and a Medical College will be established in Karbi Anglong.

5.2. Additional steps like immediate up gradation of the District Hospitals and PHCs will be taken up by the newly restructured authority with assistance from the Government of India and the Govt. of Assam, as the case may be. Additional funds if necessary will be provided by the Govt. of India for this purpose on project basis.

5.3. The Government of India and the Government of Assam will encourage KAATC to take up projects under PPP model in the area of Health care and education including professional and higher technical education to achieve the potential of Karbi Anglong emerging as a regional Health care and educational hub. Steps for necessary empowerment of the KAATC to initiate and formulate projects reports will be taken by the Government.

5.4. The existing campus of Assam University (established by an Act of Parliament) at Diphu, needs up-gradation by way of additional infrastructure and faculties to meet academic needs. It is also noted that the strengthening of the college and secondary/primary education

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infrastructure is important to reap the full benefit of such up gradation of education facilities at the Post-Graduate level. The Council will prepare detailed project reports both for upgrading the existing institutions but also for starting new institutions, so that Government assistance could be considered. Assistance in drawing up suitable projects will also be made available by the Government.

6. INSTITUTIONAL CHANGES

6.1. Steps for Constitutional amendments necessary to implement the agreed points of the MoS will be taken by the Government of India. Suitable amendments and delegation of powers under various relevant acts to enable the Council to exercise its responsibilities will also be taken by the State Government and where necessary by the Government of India.

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6.2. Appropriate amendments will be proposed in the provisions of the 6th Schedule of the Constitution to facilitate and ensure devolution of administrative powers and stimulate developmental activity at the grass roots level by constituting village level local governance units e.g. Village Councils/Gram Sabhas.

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6.3. An effective procedure to release funds (coming from both State and the Central Governments) to the KAATC will be put in place to ensure their utilization for the intended purpose without diversion or delay.

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6.4. A committee comprising representatives of the State Government and the Council may monitor and review the regular release of scheme

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based funds to KAATC. The MHA monitoring committee will be kept informed.

6.5. Both the Government of India and the Government of Assam will consider the case for higher fund allocation to the KAATC to undertake viable developmental activity within their jurisdiction.

6.6. All participants in the tripartite process also accepted the need for strict adherence to established norms of financial management in the KAATC administration and the need for all involved in such management to maintain the highest standards of probity to prevent mis-utilization /mis-appropriation of developmental funds meant for the people. Without in any manner diluting the authority of CAG with regard to audit as provided in the constitution, it is agreed to evolve and implement an additional system of effective auditing projects with the participation, where necessary, of authorities like NABARD etc. Such audit reports along with the Action Taken Report (ATR) from the Council shall be placed before the Governor/ Committee of the Legislature (proposed) within a reasonable time. *State Govt*

6.7. An independent body like the State Finance Commission will be constituted by the Government of Assam to recommend establishing a proper basis for fund allocations and sharing of tax proceeds between the State Government and 6th Schedule institutions like the KAATC. The Government of India and the Government of Assam will initiate steps for necessary modification in the constitutional and other relevant legislative/procedural regulatory regime. *State Govt*

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6.8. In view of the changes relating to the role and scope of functioning of the Councils, there is a need to undertake a thorough revision of the Assam Autonomous District (constitution of District Councils) Rules, 1951 to incorporate these changes and to reflect the spirit of empowerment and devolution in governance at the ground level. The Government of Assam will initiate necessary steps in this regard expeditiously in consultation with the KAATC and other 6th Scheduled Councils. It is agreed to complete the revision within a year.

7. FINANCE & PLANNING

7.1. The planning and budgetary exercise for all the subjects in the Council after the proposed restructuring will be a major exercise. Preparation for Five Year and annual plans by the Council within the broad framework of State/National priorities will need to cover all activities of departments under their charge. To enable the restructured Council to handle this responsibility effectively, the State Government will initiate steps to make available adequate number of experienced officers to the Council for the purpose.

7.2. The Ministry of Home Affairs shall co-ordinate the task of Capacity building in the Council to deal effectively with enlarged responsibilities relating to transferred subjects by imparting suitable training to Officers and Staff of the Council. A sum of Rs.10 Crores will be made available as one time grant for the purpose.

8.1. Steps will be taken for protection of language and culture of Karbi people and also for preservation of historical monuments and heritage sites like Ronghang Rongbong. It is agreed in principle to set up a

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Cultural centre at Taralangso and an Academy to promote Karbi language and culture at an appropriate location in Karbi Anglong to promote and preserve the culture and tradition of Karbi people. The KAATC will send a detailed project report for consideration of the Government of India for approval and sanction of project funds.

8.2. The Archaeological department of the Government of Assam and the Archaeological Survey of India will undertake a survey of other heritage sites relating to Karbis and other indigenous people within the jurisdiction of the Council to formulate projects for their preservation and maintenance.

8.3. The State Government and the Ministry of Environment and Forest will make an assessment of potential for forest related activities in the district and also suggest measures for their protection. The State Government/Government of India will consider release of additional funds to the KAATC for forest related activities and protection of Forest resources.

8.4. The Government of India will give a project based grant for setting up a Karbi Bhawan in Delhi. For this purpose, the Council will apply for a plot to the Delhi Development Authority (DDA).

8.5. The demand for exempting Scheduled Tribes (Hills) candidates from Karbi Anglong from taking one Modern Indian Language (MIL) in the Union Public Service Commission (UPSC) conducted Civil Services examination will be referred to the UPSC for their examination and consideration.

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8.6. The demand for inclusion of Karbi language in the VIIIth schedule of the Constitution will be referred to the Committee looking into such issues for its consideration. This will be decided on the basis of parameters recommended by the Committee.

9. ADDITIONAL ECONOMIC PACKAGE

9.1 The Government will initiate steps for undertaking a feasibility study of a direct road link between Diphu and Umpanai (both in Karbi Anglong) as a high way linking NH-36 (Karbi Anglong) and NH-44 (Meghalaya) for the purpose of including it in the list of priority projects to provide reliable road linkage within the Council area and, additionally, a direct shorter route to Shillong (Meghalaya), the headquarters of North East Council.

9.2 Construction of roads for improvement of road connectivity in Karbi Anglong District will be considered under existing schemes in phased manner on submission of Detailed Project Report (DPR) submitted by the KAATC. An illustrative list for construction of roads in Karbi Anglong District is at Annexure I of MoS. To augment availability of power, KAATC will submit proposals to the Ministry of New & Renewable Energy (MNRE) which will consider special projects for this purpose in the KAATC area.

9.3 Council will submit projects for water supply to Diphu and other notified towns in Karbi Anglong which will be considered expeditiously for implementation.

9.4 A special economic package of Rs.350 Crores (Rs.70 Crores per annum) over and above the Plan fund over the next five years will be provided to the KAATC to undertake special projects that will be proposed by the Council. A committee will be formed involving the Representative of the Government of Assam, KAATC and concerned Central Ministries, for identification of projects under special economic package. Funds will be provided through the State Government for specific monitorable projects through the Non-lapsable Central Pool of Resources (NLCPR) or the Plan exercise in a time bound manner, while ensuring dovetailing of all fund flows to the district from Finance Commission and other sources.

9.5 The responsibility for providing land, if necessary, for any of the projects flowing from this MoS shall be the responsibility of the KAATC.

10. MONITORING

10.1 A Committee under the Chairmanship of the Joint Secretary (NE), MHA, Government of India will review every 6 months the status of implementation of the decisions under this agreement. Senior most Secretary, Home Department, Senior most Secretary, HAD and the Principal Secretary of Council will represent the Govt. of Assam and the Council respectively in the Committee. Initially, a representative nominated by the UPDS will also be a member of this Committee, until further review.

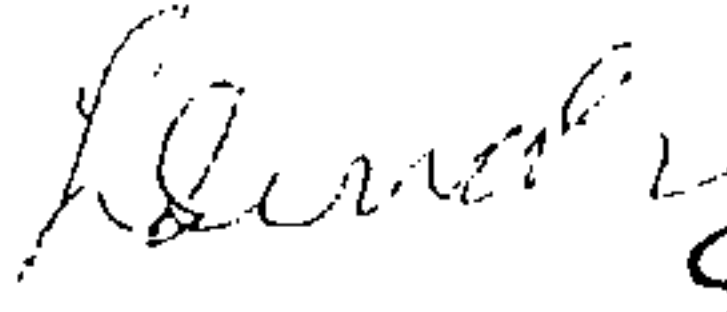
10.2 The Monitoring Committee shall associate representatives from other ministries/departments as and when necessary. The term of the


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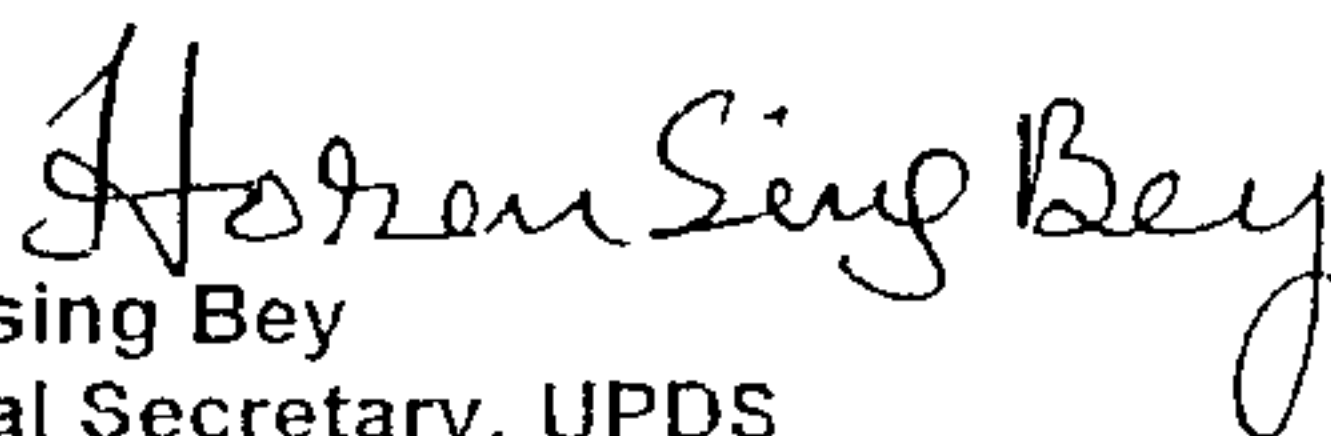
monitoring unit will be co-terminus with the implementation period of the Memorandum of Settlement.

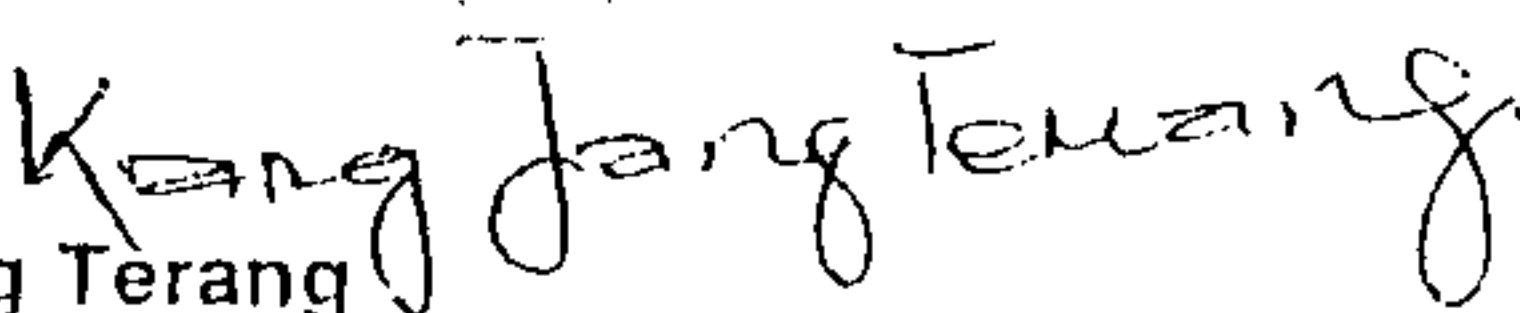
10.3 The Committee will send a report to the Union Home Secretary who, on receipt of the report, may, communicate the same with appropriate advice to the State Government.



Mohon Timung
Chairman
United People's
Democratic Solidarity

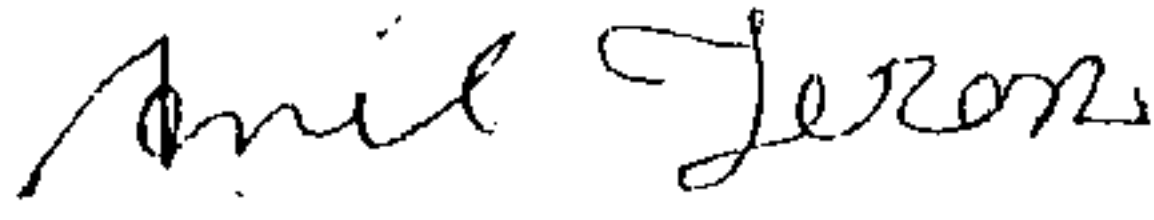

Jishnu Barua
Commissioner & Secy.
Home Department
Government of Assam


Shambhu Singh
Joint Secretary
Ministry of Home Affairs
Government of India


Horensing Bey
General Secretary, UPDS


Kang Jang Terang
Joint Secretary, UPDS


Surja Rongphar
Joint Secretary, UPDS


Anil Teron
C-in-C, UPDS

*Signed on 25th November, 2011 in the presence of Sh. P. Chidambaram
Hon'ble Union Home Minister and Sh. Tarun Gogoi, Hon'ble Chief Minister of
Assam.*

LIST OF ECONOMIC LIFELINE ROADS FOR THE PURPOSE OF CONSTRUCTION AND UPGRADATION (Refer Item No.9.2)

(Item No. 9.2 of the Memorandum of Settlement signed between the Union Government, the State Government and the UPDS)

1. NH 93 at Silonijan – Chokihola – Kohora (SCK) Road
2. NH 36 at Dokmoka – Samelangso – Langlokso – Arlongvoti – Chokihola Road
3. NH 36 at Lognit – Thekerajan – Dungkeklangso – Binlum – Samelangso Road
4. Diphu – Mijung – Arlongpharla – Langkaijan – Pranprangso
5. NH 37 at Kuthuri point – Rongmongve – Langkhang – Bhelohat – Dokmoka
6. NH 36 at Dengaon Point – Bithilangso – Kangthi – Corsim Athoi – Bijonbari Phangcho – Parkup Pahar – Utmari Iron Bridge – NH 37 at Samuguri Point.
7. Rongmongve ITDP Block Hq to Langlokso via Hidipi – Hidiso Road
8. Borlangfer – Mijung – Klurdung – Ram Nagar/Phonglokpet –NH 36 at Bokolia point
9. NH 37 at Nellie (221st KM point) – Umpanai – Rongjangphong – Habai Engti – Rongchek (Socheng)
10. Amsoi – Baithalangso Road.
11. Umlapher – Khanduli – Tapat – Umkhirmi – Zirikindeng – Kheroni Road.
12. Baithalangso – Khanduli NEC Road.
13. Umpu – Longle-ethan – Baida – Phongjangre – Dera Arlok – Deori Tiniali Road.
14. Hamren – Linchika – Donkamukam – Tumpreng – Hojai Road.
15. Hongkram – Taradubi – Tumpreng – Phangtengphrang – Sildubi – Kheroni Road
16. Hamren – Upilangso – Langchithing – Zirikindeng Road
17. Ulukunchi – Durong Road
18. Satgaon – Rongkuroi – Amguri – Doloni – Borthol Road

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