

PUBLIC ACCOUNTS COMMITTEE
(1973-74)

(FIFTH LOK SABHA)

HUNDRED AND THIRTY-FIRST REPORT

[On Paragraphs 28-31 relating to the Ministry of Foreign Trade included in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil)].



LOK SABHA SECRETARIAT
NEW DELHI

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- 11-7-1973(AN)
- 20-9-1973(FN)
- 25-4-1974(AN)

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(1973-74)

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Shri M. S. Sundaresan—*Deputy Secretary.*

Shri T. R. Krishnamachari—*Under Secretary.*

*Elected on 29-11-1973 *vice* Shri D. S. Afzalpurkar died.

**Ceased to be members of the Committee consequent on retirement from *Rajya Sabha* w.e.f. 2-4-1974.

INTRODUCTION

1. The Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Hundred and Thirty-First Report of the Committee (Fifth Lok Sabha) on Paragraphs 28—31 relating to the Ministry of Foreign Trade included in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil).

2. The Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), was laid on the Table of the House on the 18th April, 1973. The Committee examined the paragraphs relating to the Ministry of Foreign Trade—Export Promotion at their sittings held on the 10th, 11th July, and 20th September, 1973. This Report was considered and finalised by the Committee at their sitting held on the 25th April, 1974. Minutes of the sittings form Part II* of the Report.

3. A statement showing the summary of the main conclusions/recommendations of the Committee is appended to the Report. For facility of reference, these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Comptroller and Auditor General of India.

5. The Committee would also like to express their thanks to the Officers of the Ministry of Commerce for the cooperation extended by them in giving information to the Committee.

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

NEW DELHI;
29th April, 1974
9th Vaisakha, 1896 (S).

*Not printed. One cyclostyled copy laid on the Table of the House and five copies placed in the Parliamentary Library.

REPORT
EXPORT PROMOTION
CHAPTER I
COPPER CONDUCTORS

Audit Paragraph

1.1. Under the general export promotion policy, for export of copper conductors 90 per cent of the f.o.b. value as import replenishment is admissible but no cash subsidy. For exports of large magnitude Government, however, when need be, issues special sanctions outside the framework of the general policy.

1.2. An Indian company 'A' manufacturing electric meters, conductors, etc., submitted in the later half of 1967 to the Government of a middle-east country a quotation for supply of 2,000 tonnes of copper conductors and informed Government of India that it would accept 70 per cent, instead of 90 per cent, import replenishment and urged that 10 per cent cash subsidy should be laid by Government to it for the (deferred payment) deal. The company had also then informed Government that:

- (i) The c.i.f. price per tonne of the conductors was \$ 1,237.50 to \$ 1,241.50, those rates were based on the price of £ 350 per ton of copper bars in the London Metal Exchange and the final contract price would be adjusted according to a copper price variation clause.
- (ii) There was a possibility of the quantity of conductors being increased from 2,000 to 3,000 tonnes.

1.3. In January, 1968 the company informed Government that it had been persuaded to accept the order for the additional 1,000 tonnes and that this would not perceptibly alter the outflow and inflow of foreign exchange a detailed statement of which it had submitted earlier to Government.

1.4. In September, 1968 Government of India approved grant of cash subsidy limited to the estimated loss, as determined by a Government cost accountant, subject to a maximum of 10 per cent of the f.o.b. value with import replenishment of 70 per cent and the company assured Government that it would make available to the Government cost accountant such production data and information as

might be required by him. The consideration which then weighed with Government in agreeing to give cash subsidy were:

- (i) The company had ~~submitted~~ its offer for the conductors in September 1967 when the LME price for copper was around £ 350 per ton but subsequently from October, 1967 there was an unprecedented rise in the price of copper because of which copper was covered by the company on the price of £ 700 and because of this the company would have to bear substantially higher financing charges.
- (ii) The conductors to be exported were stranded conductors, the value added for which is more than that for solid conductors.
- (iii) As against 90 per cent replenishment normally allowed for copper conductors, the actual import replenishment was 70 per cent. The company had melting and refining facilities where virgin copper is melted along with copper scrap and had in fact already made arrangements for procuring indigenous copper scrap. Government allows 10 per cent cash subsidy for paper insulated lead covered (PILC) power cables for which also import replenishment is 70 per cent. Further, for aluminium cables steel reinforced (ACSR) conductors, cash subsidy is 10 per cent while import replenishment is 90 per cent.
- (iv) The company had claimed that the manufacturing cost of cables made from scrap was Rs. 2,527 per tonne as against Rs. 1,694 per tonne for that made from imported wire bars and, as such, it was incurring a cost penalty by reducing the import content.
- (v) The company had to reduce its original quotation in the face of severe competition from foreign firms because of devaluation of sterling* and it was prepared to substantiate this by documentary evidence.
- (vi) The net foreign exchange earnings would be Rs. 1.61 crores which would be nearly 40 per cent of the f.o.b. value of the contract.
- (vii) It is necessary for some of the firms in India to get a foothold for the sake of obtaining further business in that country.

*Sterling was devalued on 18th November, 1967.

1.5. The Government cost accountant submitted his report in January, 1969 when less than half of the export order had been executed. He, therefore could not verify the actual loss in the deal. He estimated that, subject to what is stated subsequently, the total loss would be Rs. 68.03 lakhs. After examination of his report, Government concluded (April, 1969) that a case had been made out for 10 per cent cash subsidy.

1.6. According to the report of the Government cost accountant, on 1st September, 1967 company 'A' had sent its quotation for 2,000 tonnes of copper conductors to company 'B' (registered in the importing country) at the rate of \$ 1,310 per tonnes *c.i.f.*, and on 2nd September, 1967 company 'B' had sent the quotation, to the foreign purchasing organisation, of \$ 1,250 per tonne *c.i.f.* There were negotiations and a contract for sale of 2,000 tonnes of different sizes of stranded copper conductors at the rate of \$ 1,237.50 to \$ 1,241.50 per tonne *c.i.f.* was executed on 21st January, 1968. Company 'A' also obtained further orders for 1,000 tonnes of plain copper conductors, the price being \$ 1,150 per tonne *c.i.f.*, provision to this effect being subsequently included in the contract. Thus, one-third of the copper conductors exported was plain, and not stranded.

1.7. Production of conductors from copper scrap, as compared with that made from copper bars, entails extra expenses in the form of (1) higher burning loss and (2) refining and grinding costs of scrap. It is observed from the report of the Government cost accountant that the burning loss for making conductors from scrap was about Rs. 474 per tonne while it was Rs. 184, per tonne for Copper Wire bars and that the refining and grinding cost of scrap was Rs. 291 per tonne, there being no such cost of copper wire bars. Taking these factors into account and also allowing for the duty drawback of Rs. 1,590 per tonne admissible for the conductors to the extent of 690 tonnes of indigenous copper scrap used by company 'A' for their manufacture, the comparable costs for copper conductors made from wire bars and from copper scrap were Rs. 13,131 and Rs. 12,054 per tonne respectively. Thus, it was cheaper, and not costlier as had been claimed, for company 'A' to manufacture the conductors from indigenous scrap than from imported copper bars.

1.8. The Government cost accountant also pointed out that there were no means to verify by documentary evidence the existence of any lower foreign offer or company 'A' being compelled to reduce the price due to such foreign competition.

1.9. The Government cost accountant's estimate of the loss of Rs. 68.03 lakhs to the company included amongst others, the following:

- (1) Normal overheads—Rs. 14 lakhs.
- (2) Sales commission payable to company 'B'—Rs. 17.19 lakhs.
- (3) Export overheads of company 'A' (for getting the export order).—Rs. 2 lakhs.
- (4) Change in the base copper price in the escalation clause (included in the contract) from £ 350 to £ 408.6 sh. 8 d. per tonne.—Rs. 31.5 lakhs.

Normal overheads

1.10. In 1967-68 (which was before execution of the export order) and in 1968-69 and 1969-70 (the two years in which the export order was executed) the total internal sales of company 'A' were at about the same level (Rs. 3.1 to Rs. 3.8 crores). The company's overheads in 1967-68 were Rs. 22.23 lakhs while for 1968-69 they were estimated by the Government cost accountant to be Rs. 22.30 lakhs. Since the cost of accountant had allowed for all other expenses for the order on marginal cost basis and since the company's total normal overheads had not increased he was of the view that no portion of the normal overheads of the company should be loaded to the export order. The cost accountant had requested Government to take a decision on this point.

1.11. Since Government's intention was to make good (partially or wholly) the loss on account of this particular export deal the marginal cost principle is applicable in this case. On this view, the loss suffered by the company on this deal should not include any amount for the overheads.

Sales Commission:

1.12. According to the agency commission agreement executed between companies 'A' and 'B' on 22nd February, 1968, company 'B' was to receive 4 per cent of the f.o.b. value of the order as agency commission. Company 'A' had explained to Government that the two companies had no common directors on their boards and that there was no connection between the companies which were two separate legal entities.

1.13. It may be mentioned that a person who had been residing for a number of years in the foreign country was a director of company 'B' at the time of the negotiation of the deal; thereafter he ceased to be a director of that company and became director of company 'A'.

1.14. Company A's quotation for sale of 2,000 tonnes of conductors was based on the price of £350 per ton of copper in the L.M.E. Had there been no change in the copper price, about Rs. 10.74 lakhs would have been payable as sales commission by company 'A' to company 'B'. However, merely because of the steep increase in the price of copper, in view of the escalation clause in the contract the f.o.b. value of the export order increased by 60 per cent and thereby company 'B' became entitled to additional sales commission of Rs. 6.45 lakhs for which apparently it did not have to put in any extra effort. This was a windfall gain for company 'B' and to that extent increased company A's loss from the export order. The sales commission had to be paid in foreign exchange. Whether such drains on the country's foreign exchange should be allowed needs consideration. Change in the base copper price.

1.15. The Government cost accountant pointed out that by a separate agreement dated 28th May 1968 the parties had amended the original article 3 of the contract, incorporating the price variation clause, changing the base price of copper in LME from £350 to £408.6 sh. 8d. (for every £1 variation in the actual price of copper from the base price the final price of conductors was to vary at a specified rate). Company 'A' had explained that this had to be done in order to increase the scope of the contract from 2,000 tonnes to 3,000 tonnes. It is to be pointed out that the base price of copper in the price variation clause was so changed four and half months after the company had accepted the order for the additional 1,000 tonnes. Further, on account of the export of the additional 1,000 tonnes there was a net inflow of foreign exchange of Rs. 41 lakhs approximately in our country whereas the loss to company 'A' because of the change in the base price of copper was as much as Rs. 31.50 lakhs.

1.16. If normal overheads of Rs. 14 lakhs, extra sales commission of Rs. 6.45 lakhs and reduction of Rs. 31.50 lakhs in the f.o.b. price are excluded, the loss of Rs. 68.03 lakhs estimated by the Government cost accountant would be reduced to Rs. 16.08 lakhs only as against Rs. 41.91 lakhs (being 10 per cent of the f.o.b. value) paid as cash subsidy to the company.

1.17. Government's estimate of Rs. 1.61 crores being the net foreign exchange earning from the export deal:

- (1) included interest (5½ per cent) on the deferred payments,
- (2) had assumed that the base copper price was 350 per ton, and
- (3) did not take into account payment of 4 per cent sales commission to company 'B'. (Before the Government cost accountant reported Government was not aware of the existence of the agency agreement between companies 'A' and 'B').

1.18. The value of a future payment is less than that of a present payment and interest is a compensation for that. Besides, on the foreign securities it holds the Reserve Bank earns interest. Interest earnings, it is felt, should not be included in computing the net foreign exchange earning from the export deal. Excluding interest earnings and allowing for change in the base price of copper and payment of 4 per cent sales commission, the total foreign exchange earning from the export deal was about Rs. 1.10 crores as against Rs. 1.61 crores assumed.

1.19. The Government cost accountant had suggested that since most of the costs detailed in his report were estimates and since the major portion of the cost was still then to be incurred, the company might be asked to submit details of the actual expenses duly certified by the company's auditors after completion of the order. Government informed audit in March 1971 that company 'A' had expressed inability to segregate expenses relating to the particular contract from the total expenditure on its various activities as its practice was not to maintain separate accounts for separate export orders.

1.20. It is true that for this particular export order company 'A' obtained 70 per cent import replenishment licence as against 90 per cent admissible. This, however, did not represent, for the economy as a whole, reduction in consumption of a scarce commodity—copper—(80 to 85 per cent of which is imported) because, apart from importing 2,310 tonnes of copper against the 70 per cent replenishment licence, the company purchased from the indigenous market the balance quantity of 748 tonnes of copper scrap. In making allocations of copper to Indian Industries, availability of copper scrap in the indigenous market is kept in view, though, however, recently Indian industries have complained that they often do not succeed in getting copper scrap from the indigenous market. The true import content of PILC power cables is 70 per cent and,

therefore, it is not analogous to copper conductors. For export of ACSR conductors it is not easy to see why in addition to 90 per cent import replenishment 10 per cent cash subsidy was being allowed. From January 1970 import replenishment for export of ACSR conductors has been reduced to 20 per cent while cash subsidy has been increased to 15 per cent.

1.21. According to the Government Cost Accountant's report, the value added in the production process in India (cost of refining scrap plus manufacturing costs plus packing costs) was only Rs. 23 lakhs in the export order under consideration. This 5-1/2 per cent of the f.o.b. value of the export order; the labour content was only 1.8. per cent of the f.o.b. value. The value added being so small, it needs consideration whether, through cash subsidy, concessional railway freight and interest rate, we should seek to promote this kind of export. Our country does not enjoy comparative advantage in manufacturing and exporting such a product the import content of which is very high and labour content so low.

1.22. The case was reported to Government in December 1971; reply is awaited (December 1972).

[Paragraph 31 of the Report of Comptroller & Auditor General of India for the year 1971-72, Union Government (Civil)]

1.23. From a note placed before the Committee by the Ministry of Finance the following emerges:—

To a Memorandum of the firm dated 24th June, 1968 was for the first time attached a statement showing the economics of cost vis-a-vis sale price and the estimated total loss for the entire order amounting to Rs. 40.83 lakhs.

It was considered that some subsidy may be given even though it is after the contract was secured. It was pointed out that the subsidy may be limited to the estimated loss, as determined by a Government Cost Accountant, subject to a maximum of 10 per cent of the f.o.b. value, with an import replenishment of 70 per cent. The Cost Accountant will have to satisfy *inter alia*, that, "by verification of documentary evidence, the party were compelled to reduce their offer substantially owing to the lower British officer following sterling devaluation". Accordingly, approval of the Government for grant of assistance 'subject to the extent of loss as determined by a Government Cost Accountant' upto a maximum of 10 per cent of the f.o.b. value was communicated to the party in the letter dated the 5th October, 1968."

1.24. However, the Government Cost Accountant in his report dated 8th January, 1969, as furnished by the Ministry of Commerce at the instance of the Committee, pointed out that "there is no means to verify by documentary evidence the existence of any lower British offer or the Company being compelled to reduce the price due to such competition."

1.25. During evidence a representative of the Ministry of Commerce informed the Committee that in the absence of any specific information, the contention of the company as to the existence of foreign competition which compelled them to reduce their quotation was accepted.

1.26. The Committee learnt that the Ministry of Commerce in their communication dated the 24th March, 1973 to Audit had stated that the interest earned in foreign exchange was a foreign exchange earning for the country. When the Committee referred to this, the Secretary, Ministry of Commerce stated during evidence. "The question is, then, the out flows of foreign exchange that are to be taken into account. On this, there may be, with regard to certain matters, more than one point of view. For example, you kindly referred to the question of 5½ per cent interest. There, I am inclined to submit this for your consideration. I think, the audit point of view, if I may submit, is correct and it would not be proper for Government to take a point of view that the 5½ per cent interest that has been earned as deferred payment is an additional accrual to foreign exchange. I would accept that position. . . . In our view, to arrive at the net foreign exchange earned, we should make two deductions. From the gross payments that we receive, we should make a deduction for the 4 per cent commission that was payable, which was payable in foreign exchange, and we should also make a deduction for the copper that was imported from abroad. The rest of it is the net foreign exchange earned by the country. . . . If I am permitted to reconfirm it, it would be about Rs. 133 lakhs."

1.27. The Committee learnt that the Ministry of Commerce had communicated to Audit in March, 1973 that "The Government agree that it was cheaper and not costlier for the firm to manufacture conductors from indigenous scrap than from imported copper bars as worked out by the Government Cost Accountant. It may be stated that the firms claim on this point was ignored while arriving at the quantum of loss and it was only the Government Cost Accountant's report which was taken into account."

1.28. Dealing with the normal overheads expenditure, the Secretary, Ministry of Commerce stated during evidence ". . . . the Cost Accounts Officer has given an analysis of the expenditure. That shows a loss of Rs. 68 lakhs; but there is also a discussion whether an

amount of Rs. 14 lakhs pertaining to overheads should be admissible or not. If this item is taken away as non-admissible, then the loss has been indicated as Rs. 54 lakhs. If we allow them cash assistance of 10 per cent, it comes to Rs. 42 lakhs. The figure of Rs. 42 lakhs is the total quantum well below the figure of Rs. 54 lakhs as losses arrived at in the calculations...after deleting the amount of overheads as non-admissible. Therefore, the actuals in terms of the analysis..., are of a much higher order than the cash assistance granted by the Government."

1.29. As regards verifying the actual expenditure, the representative of the Ministry of Finance stated: "The Cost Accountant... estimated the losses at about Rs. 54 lakhs. It comprised of two or three main elements, on which there is not much uncertainty. One item relating to the sales commission; and another was interest charges amounting to Rs. 18 lakhs. These things related to firm figures without any scope for variation. Therefore, if you leave out 2 or 3 major elements and as the Government had as a matter of principle decided that they will not give cash assistance in excess of 10 per cent, you had only to be satisfied that even on a very conservative estimate, the losses were not likely to exceed that figure. One cost estimate had already been made. There was no point in verifying it again on the basis of actuals."

1.30. The witness further stated: "In the case of cash assistance, it is not always insisted that it should be subject to audit certificate... It is given as a flat percentage f.o.b. realization, but before fixing that percentage, the Government has to be reasonably satisfied that that estimate is proper; and if there is an element of doubt, we should then ask the Cost Accountant to check on the basis of actuals. But if the estimate has scope for very limited fluctuations, there is no point in having another exercise. At the first stage, we felt we should not go by the estimate alone. At the second stage, we had come to conclusion that the estimate was reasonably firm with reference to the ceiling we had already decided upon. Supposing, for the sake of argument, the Cost Accountant's report had led to a lesser amount, we would certainly have insisted that we should wait for the Cost Accountant's further analysis after the order had been completed. In this case, it was not necessary. The basis was more or less firm."

1.31. In reply to a query, the Chief Cost Accounts Officer stated: "Normally, I think we take the actual figures. It is our practice to suggest that the actual figures should be verified subsequently in order that any estimate that we may make is not on the higher side. That has been our practice."

1.32. In reply to another query, the witness stated: "Our view would be that it would be better to send those figures to us before they are finally made out."

1.33. The Secretary, Ministry of Commerce, further stated: "If we are to make payment of over Rs. 54 lakhs, I entirely agree with you that this should have been verified before making the payment. The difference between Rs. 42 lakhs which we have sanctioned and Rs. 54 lakhs which was the assessment made by (the Cost Accountant) at that time, will be Rs. 12 lakhs. This is more than adequate for any operations which require verification. How much can he pay towards interest charges? If we are to go on verifying each and every item, then it might result in red-tape. If things are not to be verified or if we do that for the sake of verification, then the sanction might also require to be modified. The Cost Accounts Officer, as the Chief Cost Accounts Officer mentioned, made a stipulation like that as a matter of abundant caution without the full scrutiny and things like that which will go well beyond Rs. 42 lakhs that we sanctioned. I do not think that it would serve any purpose at all."

1.34. Justifying that the Sales Commission amounting to Rs. 17.19 lakhs as an element of cost, the Secretary stated: "It does not require the certificate of a Chartered Accountant for taking a certain view in the matter. We, therefore, felt that it was fully an admissible expenditure on the original estimated value of F.O.B. cost. It is an element of the cost to the party."

1.35. Giving the reasons for not asking for the audit report of the actual expenditure of the company, the representative of the Ministry of Finance stated: "if you are reasonably satisfied on the basis of an estimate that the loss likely to be incurred by the firm is reasonably in excess of the amount up to which you are prepared to give subsidy, then, there will be no point in again going through another exercise of deputing a Cost Accountant to get at the actuals."

1.36. In a written reply to a question in connection with the Audit paragraph relating to grant of cash assistance for export of dehydrated onions, the Ministry of Commerce, *inter alia*, had informed the Committee that "the levels of cash compensatory support are fixed by the Government on the marginal costing criterion i.e. certain elements of expenditure e.g. depreciation, overheads (factory and administrative) other than labour charges, financial and interest charges on borrowings for capital; commission to agents; and payment of royalty under collaboration arrangements are not taken into account."

1.37. In a ~~note~~, the Ministry explained as follows:—"As will be seen from the Cost Accounts Report, items such depreciation and royalty have not been included in the Cost statement. While working out the loss to the firm, the Government excluded the normal overheads also. With regard to interest charges and sales commission following comments are offered.

Sales Commission:

1.38. Grant of sales commission at 4 per cent to overseas agents was considered justified, particularly in view of the following:—

- (i) the firm stated that but for the payment of sales commission @4 per cent to their Agents [M/s. (B)] it would not have been possible to secure the contract.
- (ii) The Reserve Bank of India allows remittance of commission upto 7 per cent of the contract value. [Copies of two letters authorising sales commission to M|s (C) were produced].

Interest charges:

1.39. It was a high value contract on deferred payment. It was therefore natural for the company to seek some credit and re-financing arrangement. If interest was paid on internal finance raised, interest was earned also due to deferred payments from overseas buyers. Interest earned in foreign exchange has been taken into account on the realisation side. It was therefore justified to allow this expenditure on cost.

Export overheads:

1.40. Out of Rs. 5 lakhs worth of expenditure claimed by the firm on export overheads, only Rs. 2 lakhs were taken into account as reasonable expenses from this order.

1.41. During evidence the Committee desired to know the justification for compensating the party for the loss which it suffered because it amended the escalation clause of the original agreement 4½ months after its being executed. The Secretary, Ministry of Commerce stated: "When they had quoted in September 1967, the price of metal was £350. The relationship between the £ and \$ was 2.80. Now the devaluation took place in November and according to this change the company spent nothing to maintain the same rupee cost when the offer was made. Sir, when the offer

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was made there were certain rupee payment adjustments to be made because arising from the foreign exchange figures all that they did was that they acted to adjust it to the new changes in taking the £350 to £480 into account after devaluation. However, they had felt a slight additional cost because of this change, that too in rupee cost. What has happened is that they had not insisted on accepting the £ devaluation. The Indian tenderers in foreign countries are not in a position to resist the buyers' pressures of this type."

1.42. The letter of intent of the foreign organisation dated 31-1-68 sent to (B) a copy of which was furnished by the Ministry read as follows:

"Re: Copper Wire of 6 and 10 mm. 2. Section

We have agreed your Offer Ref. Ac. L/67/34/Co. of 27th December, 1967 for supply of Tonnes one thousand of Copper Wire of six and ten square Millimeters Sections, on the basis of each ton US \$ 1150 which has been made up on the basis of the rates of copper in London Market (£Stg. 350. each long Ton).

However, you are requested to send your authorised Representative for enter and conclude the required contract.

Under circumstances, please take note that the basis rate of above mentioned copper is the same of your previous contract i.e. (£Stg.) before its depreciation which indeed at the time of computing the cost of object of transaction, this fact will be carried into account accordingly."

The devaluation took place in November, 1967.

1.43. During evidence, the representative of the Ministry of Finance stated: "In fact, there is a genuine mistake which they should have really adjusted to the devalued price. They did not do so. This point was raised with them and we were satisfied that this was a *bona fide* mistake." He further added: "When the amount was increased I said that there was a possibility of getting this additional order. This was done in January 1968. In fact, at this stage, it should have been corrected because the devaluation had already taken place and this was subsequently rectified by the formal amendment concluded in May 1968."

1.44. The Secretary, Ministry of Commerce stated. "This is a mistake of the foreign Authority. Our experience is that when any

foreign buyer or foreign Govt. or major department of the foreign Govt. makes a mistake, unless they co-operate with us in adjusting the mistake, it is very difficult to correct it. My interpretation is that the mistake is committed at the foreign end and not at the Indian end."

1.45. According to the report of the Government Cost Accountant, on 1st September, 1967 M/s. (A) had sent its quotations for 2,000 tonnes of copper conductors to M/s. (B) at the rate of \$1310 per tonne C.I.F. and on 2nd September, 1967 the latter had sent the quotations to the foreign purchasing organisation of \$1250 per tonne C.I.F. The Committee wanted to know whether Government had enquired how the price could be reduced by the agents on their own and if so, the findings. The Ministry stated in a note: "The firm has informed that the quotation dated 1-9-1967 was submitted to (B) personally by one of their Senior Executives who was in the foreign country. The subsequent reduction was given by (B) in consultation with their representative (of (A))."

1.46. The contract entered into between (A) and the foreign purchasing organisation, a copy of which was forwarded to the Committee describes it as between the buyer and the seller (A) represented by one Shri (Y) on whose behalf (B) represented by Shri (Y) are acting as agents. The copy of the contract does not indicate the date on which it was executed.

1.47. The Government Cost Accountant in his report dated 8th January, 1969 in paragraph 6.47 while scrutinising the payability of Sales Commission of Rs. 17.19 lakhs at the rate of 4 per cent f.o.b. value of the order to M/s. (B), had observed: "In the correspondence exchanged between M/s (A) and M/s (B) as supplied to us, there is no evidence of the latter working as an agent for the former. Of course in the original contract between the foreign firm and M/s (A), M/s (B) signed as agents of (A). The contract between the ultimate purchaser and the (A) was signed on 21-1-1968 and the agency agreement between M/s (A) and M/s (B) was signed only on 22-2-1968. In view of the large amount involved, the Ministry may like to examine this aspect in greater detail from their angle."

1.48. When asked to state whether in the light of the suggestions made by the Cost Accountant the matter was examined and with what results, the Ministry of Commerce in a written reply stated: "The point made in the Cost Accountants Reports regarding Agency arrangement and payment of commission was discussed in a meeting held on 24th February, 1969. A copy of the Record note of dis-

cussions held is attached. A copy of the Agency Agreement supplied by the Reserve Bank of India is at Annexure . As a result of the discussions it was decided to include sales commission in computing loss incurred on contract."

1.49. A copy of the Agency Agreement furnished to the Committee does not indicate the date on which it was executed nor does it indicate the persons who signed the agreement on behalf of (A) and (B). Extract of items 3, 4, 7 and 9 of the conditions of the Agreement is give nbelow:

- * * * * *
- (3) . . . (B) agree to send to (A) regular report as to the demand, prices, specifications, etc. of the products, the market situation, activity of the competition, legal enactments and regulations prevailing within their territory and connected with the business of Electricals.
- . . . (B) on the request of the (A) have to procure offers concerning the products required from markets indicated by the (A) and to forward the same to India.
- (4) . . . (B) may submit quotations and offers based on prices and conditions fixed by the (A) only and will negotiate and secure orders subject to confirmation of the (A).
- * * * * *
- (7) In consideration of the above representation the (B) shall receive commission on the F.O.B. value of the products at the rate of 4 per cent.
- Any cable and telephone expenses, postage charges and other incidental expenses as may be incurred by the (B) in connection with the representation under this Agreement be exclusively borne by the (B).
- * * * * *
- (9) This agreement shall be for a period of four years from 1st January, 1967 in the first instance subject to renewal by mutual consent for further two years.
- * * * * *

1.50. From the Record Note of the discussions held on 24th February, 1969 as furnished by the Ministry of Commerce, it is seen that the Additional Secretary, who led the Government officers at the discussion with the representatives of 'A' ('X' being one of them) "referred to the point made in the Cost Report that while the contract between the . . . Electricity Authority and 'A' was signed on 21st January, 1968, the Agency Agreement between 'A' and

'B' was signed only on 22nd February, 1968. He desired to know the circumstances in which the Agency Agreement with....(B) was executed subsequent to the contract with the....Electrical Authorities. He also desired that....(A) should clarify the exact nature of relationship between ... (A) and(B) and in particular whether there was any interlocking Directorship between the two firms. The representatives of(A) stated that (B) had from the very beginning acted as their Agents in regard to this deal and that the understanding had all along been that an Agency Agreement would be signed with....(B) if the contract was awarded to....(A). In fact(B) had signed the Agreement with....Electrical Authorities on behalf of(A). They also clarified that Shri(X) was a Director of(B) at the time of the negotiation of the contract but he had ceased to be a Director since then. They further confirmed that the two concerns had no common Directors on their Boards. The representatives of(A) agreed to confirm these points in writing."

1.51. The Additional Secretary next raised the question of the 4 per cent commission paid to 'B'. The representatives of 'A' explained that this commission had to be paid by them to secure the contract and that the Reserve Bank had accorded general approval for remittance facilities upto 5 per cent to 7 per cent for such purposes. Such payment was customary in several Middle East and South East Asian Countries. They agreed to furnish necessary documentary evidence in support of this procedure.

1.52. Subsequent to this discussion, Shri(X) in his letter dated 27th February, 1969 had furnished the following information to the Ministry of Finance:

- "(1)....(B) had been associated with us since the beginning of the enquiry, sometime during September, 1967 fromElectricity Authority. The final agreement was also signed by them on behalf of us. A photostate copy of this Agreement is enclosed for your ready reference.
- (2) The Reserve Bank of India is generally permitting payment of 5 per cent commission, without prior reference to them. But, as a special case, with their prior approval, remittance of commission upto 7 per cent and in exceptional circumstances even upto 10 per cent is allowed.

In view of this, the payment of 4 per cent commission on this particular order does not appear to be very excessive. Besides, it was absolutely essential to agree to 4 per cent

commission, as without it, it would not have been possible for us to secure this order against very stiff competition. Besides we were entering into the market for the first with possibility of getting larger orders in future.

Permission of Reserve Bank of India for remittance of commission of 7 per cent on export of AGSR, Copper Conductors and all Aluminium Conductors has been obtained and a certified true copy of the permission is enclosed herewith. M.s. (C) are the sister concern of M/s. (B) and both the companies are under the same (management).

- (3) Shri (X) was residing in for a number of years from 1964, and during part of this time, he was appointed Director of M.s. (B). He resigned the Directorship of M/s. (B) before joining the Board of Directors of M.s. (A) There is no connection between M/s. (B) and M/s. (A) and they are two separate legal entities."

1.53. During evidence when it was pointed out that the same person who was the director of 'B' which was to get 4 per cent commission turned over from there to 'A', the Secretary, Ministry of Commerce stated: "The mere fact that he was once a director and ceased to be there and went to another company, may make some people say that this was one of the factors that led the situation to change in favour of the company which received the commission. But if it conforms to the normal standards, even the Companies Act does not preclude a director from receiving the commission so long as it is within reasonable limits"

1.54. The Committee desired the Ministry to indicate precisely for how long Shri (X) who had discussed on 24th February, 1969 with the Additional Secretary, Ministry of Finance the question of payment of 4 per cent commission to 'B', was the director of 'B' and the exact dates when he ceased to be the director of that company and became the director of 'A'. The Committee also desired to know the amount of remuneration, if any, which Shri (X) got from 'B'. The Ministry of Commerce, in a written reply, have stated: "This information was called for from the Company who have intimated that they are unable to furnish the same as Shri (X) is on sick bed, having had a heart attack. From the Department of Company Affairs, it is learnt that Shri (X) was

appointed as Director of M/s.(A) on 25th June, 1968 and he still continues to be so. Central Board of Direct Taxes, have however, furnished information about assessment made in the case of Shri(X) from assessment year 1967-68 to 1971-72 as follows:

Assessment Year.	Remuneration from 'A'	Total income assessed (Rs')
1967-68	1,99,740
1968-69	1,09,380
1969-70	1,000 (Director's fees)	23,100
1970-71	1,550 (,, ,,)	56,980
1971-72	1,000 (,, ,,)	Nil (Because of deductions.)

1.55. The Commissioner of Income-tax (Central, Bombay) has also intimated that the assessment records of Shri(X) do not indicate that he was a Director of M/s.(B) or that he was having any income by way of remuneration from that concern; Shri(X) has not shown in his return nor has he been assessed on any income by way of remuneration from aforesaid(B) for assessment years 1967-68 to 1970-71.

1.56. Asked to indicate as to when was 'B' formed and registered, the Ministry in a written reply stated: "According to a report obtained by our Embassy from the Bank... on 28th March, 1968 the Company(B) was established on 22nd June, 1966. A copy of the aforesaid bank report is at Annexure...." The Bank report discloses that Shri(X) and Shri(Y) who are Indian citizens were partners of 'B'.

1.57. During evidence, the Committee pointed out that the amount payable as sales commission by 'A' to 'B' was not included in the original statement of showing economics of cost submitted by 'A' on 25th June, 1968 although the sales commission was mentioned in the agreement dated 22nd February, 1968. When asked to indicate whether it was an omission, the representative of the Ministry of Finance stated: "I am only saying that it is a fact that originally when he submitted the estimates, he did not mention this fact of sales commission being payable. But, in the subsequent statement submitted to the Cost Accounts Officer he showed this claim. We examined that in sufficient details as to whether it should be admitted or not. It was not as if a casual decision was taken.

It was examined with reference to the conditions prevailing in that country. Further in another transaction a similar commission had been allowed by the Reserve Bank of India."

1.58. The Ministry of Commerce furnished to the Committee a copy of the telex dated 29th September, 1973 received from the Reserve Bank of India giving details of remittances of commission to(B). An extract of the telex is reproduced below:

"YOUR TELEX NO. 848 OF 29TH SEPTEMBER, 1973 REGARDING PAYMENTS OF COMMISSION BY(A). THIS COMPANY HAD CONCLUDED AN AGREEMENT WITH(B) FOR APPOINTMENT AS THEIR SELLING AGENTS IN...THE AGENCY AGREEMENT PROVIDED FOR PAYMENT OF COMMISSION AT 4 PER CENT OF THE F.O.B. VALUE OF GOODS EXPORTED AGAINST ORDERS SECURED BY THE AGENTS. ON AN APPLICATION MADE TO US BY THE STATE BANK OF BIKANER AND JAIPUR, BOMBAY IN APRIL, 1969, WE AGREED TO(A) ENTERING INTO THE AGENCY AGREEMENT WITH(B)."

1.59. In their letter dated the 27th February, 1969 addressed to the Additional Secretary, Ministry of Finance, 'A' had stated that 'C' was a sister concern of 'B'. During evidence, in reply to a question, the representative of the Ministry of Finance stated: "During the course of the discussion with the Ministry of Finance regarding sales commission payable to the company, which the company was claiming, the point which was raised was, whether this was really payable and in this connection they referred to this.... (C) for whom a similar commission was paid and they produced evidence to that effect. The Reserve Bank in fact permitted a higher rate of commission than what they are claiming."

1.60. The Ministry of Commerce, in a written reply, stated: "With regard to relationship between M|s.(B) and M|s.(C) the Reserve Bank of India have informed as follows:

"We observe that M|s.(C) and(B) are sister concerns as will be seen from M|s.(C) letter dated 20th January, 1969 addressed to M|s.(A). We have no information about the connection of Shri(X) with M|s.(C). As..... indicated to us in connection with another application for permission to offer deferred payment terms on export of transmission line towers that they are required to pay 5 per cent commission to M|s.

....(C), we made enquiries in this regard and we were advised by M|s. that neither Shri(X) nor any of thehave any interest in M|s.(C).'

In the report of Bank of....., sent by our Embassy, Shri—(X)'s name does not appear in the list of partners. The common factor, however, appears to be one Shri(Y), who held offices in both the sister concerns. (The banks indicate that Shri 'Y' and another person who are Indian citizen are partners of 'C').

As regards sales commission to M|s.(C), a copy of R.B.I. letter No. ECBYX.4726(i)-3281|67 dated the 20th December, 1967 addressed to M|s.(A) produced as evidence by the firm is enclosed.

It would be seen that though the approval of the RBI to the payment of commission to M|s.(C) at 7 per cent was conveyed, actually the Agency agreement was concluded with M|s.(B) with reduced commission at 4 per cent as is clear from M|s.(C) letter dated 20th June, 1969...."

1.61. The letter from 'C' to 'A' dated 20th January, 1969 reads as follows:

"Sub: Remittance of Commission.

Earlier, we had advised you that we shall like to have the remittance of commission in the name of M|s....(C) for 3000 tons of copper conductors against the first package deal. We had also sent you a draft agreement for which we had mutually agreed. Unfortunately, we have signed the contract with...in the name of M|s... (B) which is our sister concern. Originally we also thought that it would be possible for us to explain to the local tax authorities in the name of M|s ... (C) but now we find that we shall be unnecessarily bothered and in order to save time we shall like to have the commission draft in the name of M|s... (B) instead of M|s... (C).

Originally, you had agreed to remit even 7 per cent commission on the FOB value of the above order. Since then, we have reduced our commission on your insistence to 4 per cent. We shall now request you to kindly arrange to remit the commission on the exports already made at 4 per cent. The draft agreement in the name of M|s... (B) is enclosed herewith. Other terms and conditions will remain the same as of M|s... (C) except that the commission amount is reduced to 4 per cent."

1.62. The R.B.I. letter of 20-12-1967 to 'A' read as follows:

Re: Your agreement with M/s... (C) for sale of your products in.....

With reference to your letter No. JF: 13324 dated 17th October, 1967, we are agreeable to your paying to your agents M/s... (C) commission @ 7 per cent on exports of copper conductors, ACSR and Aluminium Conductors only but not in respect of all other electrical goods manufactured by you. You may accordingly finalise the agency agreement and apply to us for its registration through your bankers."

1.63. As disclosed from the Government Cost Accountant's Report an order for 3000 tonnes of copper conductors comprising of the following sizes was secured by 'A' at the rates shown against each:

	Qty. M.T.	Rate
(1) Copper conductors stranded 7/1·7 mm	660 ,,	1241·50 US dollars
(2) Copper conductors stranded 7/2·1 mm	800 ,,	1241·50 US dollars
(3) Copper conductors stranded 7/2·5 mm	400 ,,	1237·50 US dollars
(4) Copper conductors stranded 7/3 mm	140 ,,	1237·50 US dollars.
(5) Plain Copper conductors. 9 SWG	500 ,,	1150·00 US dollars
(6) Plain Copper conductors 12 SWG	500 ,,	1150·00 US Dollars
TOTAL	3000	

1.64. The Committee asked the Ministry of Commerce to furnish the complete production data for conductors exported to... by 'A' on the basis of audited accounts of the company. The Ministry, in a written reply, stated: "Production data for 2 years, viz. 1968-69 and 1969-70, as supplied by the firm, is reproduced below:

1968-69	
Item	Quantity
Copper conductors above 14 SWG	587·389 M. Tonne
Stranded copper conductors	1234·000 M. Tonne
1969-70	
Copper conductors 2·77 mm	510·006 M. Tonne
Copper conductors 3·55 mm	500·769 M. Tonne

Hard Drawn Bare copper conductors above 14 SWG	161.981 M. Tonne
H. D. B. copper conductors 2.5 mm	84.481 M. Tonne
Stranded Copper conductors.	485.835 M Tonne

1.65. As regards import replenishment policy, the Chief Controller of Imports and Exports, during evidence stated: "The import replenishment policy for current year also indicates 90 per cent replenishment on copper based conductors. That is the current policy. There is some rethinking on this whether it should remain as it is, and if not, how to change it. I think we will take some more time to study it."

1.66. In reply to another question, the Secretary, Ministry of Commerce stated: "But, we would very much like to concentrate on those export items where the import content is low. But..we feel that if our export drive is to have a very wide spectrum, we cannot leave out the question of some exports being also encouraged where the import content may be 90 per cent." The witness further stated: "The general objective is to try and encourage those items which have a low import content. The general objective is also not to rule out those items which have a higher import content."

1.67. In reply to another question, a representative of the Ministry of Commerce informed the Committee that "there are twelve companies which are exporting ACS conductors, aluminium conductors and they are also exporting copper conductors. I have not got separate figures for copper conductors but I have got the figures for conductors as a whole."

1.68. When asked whether any cash assistance was given to those companies, the witness stated: "In normal cases, no cash assistance is given because the import replenishment is 90 per cent. But in this particular case, the import replenishment was 70 per cent. That is why the cash assistance was given." The witness further stated: "...no proposal was received requesting for cash assistance from other manufacturers of this item."

1.69. After examining the grant of cash assistance of Rs. 42 lakhs to a company (M/s. Jaipur Metals and Electricals Ltd, Jaipur) for the export of 3,000 tonnes of copper conductors as a special case, the Committee cannot but hold it as absolutely unjustified for the following reasons:

- (1) The company had on 24-6-68 submitted a statement which indicated a loss of Rs. 40.83 lakhs. Subsequently when

the Government Cost Accountant went into the matter the company seemed to have given different deliberately inflated data/information on the basis of which a loss of Rs. 68 lakhs was made out. (This includes Rs. 14 lakhs of normal overheads which are admittedly not to be taken into account).

- (ii) The company had claimed that it had to reduce its original quotation in the face of severe competition from foreign firms because of devaluation of sterling and it was prepared to substantiate it by documentary evidence. This was to be verified by the Cost Accountant. The Cost Accountant had, however, pointed out in his report of January 1969 that there was no means to verify by documentary evidence the existence of any lower foreign offer or the company being compelled to reduce its price due to such foreign competition. In this connection the Committee find that under item 3 of the Conditions of the Agency Agreement executed retrospectively from 1-1-67 with a firm established in the country to which the exports took place, the company's agent was required to send regular reports as to the demands, prices, the market situation and "the activity of the competition." In the absence of any such report regarding the competition, the claim of the company can only be regarded as false and motivated.
- (iii) The company had sent its quotation on 1st September, 1967 for 2,000 tonnes of copper conductors to its agent @ 1310 dollars per tonne c.i.f. and on 2nd September, 1967, the agent firm had sent the quotation to the foreign purchasing organisation of 1250 dollars per tonne c.i.f. The agency agreement stipulated that the agent might submit quotations based on prices and conditions fixed by the company only. The Committee have been informed that the quotation dated 1-9-1967 was submitted to the agent firm by one of the company's senior executives who was then in the foreign country concerned and that the subsequent reduction was given by the agent firm in consultation with the companies representative. It is not, however, clear who was the senior executive present in the foreign country at that time. (It could be presumed that he is one of those connected with the agent firms). On further negotiations the rate was reduced as ranging from 1237.50 dollars to 1241.50 dollars. The justification for the successive reductions does not appear to have been gone into by Government.

- (iv) The rates quoted by the firm were based on the price of £ 350 per ton of copper bars in the London Metal Exchange and the final contract price was to be adjusted according to copper price variation clause. However, by a separate agreement dated 28th May, 1968, the parties had amended the original contract changing the base price of copper in London Metal Exchange from £ 350 to £ 408, S6, d8. This accounted for a loss realisation of Rs. 31.5 lakhs. The company had explained that this had to be done in order to increase the scope of the contract from 2,000 tonnes to 3,000 tonnes. However, there have been no pressure from the foreign buyer to change the basis and on the contrary it is seen from the letter of intent of the foreign organisation dated 31st January, 1968 sent to the agent of the company that they have agreed to the basic copper price of £ 350 even in regard to the additional supply of 1,000 tonnes. In any case there was no justification to change the basis, as the price for the initial 2,000 tonnes was quoted before the devaluation of £ sterling in November, 1967.
- (v) The Committee understand that the levels of cash compensatory support are fixed by the Government on the marginal costing criterion without taking into account certain elements such as commission to agents. However, in this case the cost is computed taking into account the agency commission of Rs. 17.19 lakhs. According to the Cost Accountant there is no evidence of the foreign firm working as an agent of the company, in the correspondence exchanged between them.
- (vi) The Committee find discrepancy in the specification and quantity of the copper conductors to be exported and the conductors actually produced for exports during the years 1968-69 and 1969-70.
- (vii) The Cost Accountant had suggested that since most of the costs detailed in his report were estimates and since the major portion of the cost was still then to be incurred, the company might be asked to submit details of the actual expenses duly certified by its auditors after completion of the order. Strangely, the company is stated to have expressed its inability to segregate expenses relating to the particular contract. This was obviously done to prevent exposure.

1.70. The Committee also note with serious concern that the whole deal is full of malpractices, concoction and fraud and on this basis penal action should be initiated immediately under advice to them. It should be explained why this has not been done so far. It is seen from the contract executed between the foreign purchasing organisation and the Indian company that the same person represented the company as well as its agent. The copy of the contract does not even indicate the date on which it was executed although it is stated to have been executed on 21st January, 1968. Although the agent seems to have signed the contract on behalf of the Indian company, the agency agreement itself is stated to have been executed on 22-2-1968, a month after the purchase contract was signed. A copy of the so-called agency agreement furnished to the Committee does not indicate the date on which it was executed nor does it indicate the persons who signed the agreement on behalf of the company and its agent. It is also seen from the letter dated 20-1-1969 from another foreign firm to the Indian company that the former were to be the agent and that because the other firm had signed the contract with the foreign organisation on behalf of the Indian company, the agency agreement had to be executed with it. Further, the permission of the Reserve Bank for entering into the agency agreement had been given only in April 1969 and, therefore, it is certain the agency agreement could not have been executed before that date.

1.71. The two foreign firms had two Indian citizens as partners each and one of the partners was common to both. The other partner in the firm which acted as an agent of the Indian company subsequently became a director of the latter w.e.f. 25th June, 1968 and he had participated in the discussion with the Government in connection with the grant of cash assistance. Surprisingly, in his income-tax returns he had not indicated his association with the foreign firm nor had he returned any income from the foreign firm. As there appears to be a clear case of fraud and evasion of tax, the matter requires a thorough probe and immediate action under advice to the Committee. If involvement of any officials is found that too should be taken care of.

1.72. In view of all that is detailed above, the Committee strongly feel that the Indian company and the two foreign firms were of same origin, ownership and control and that there had been extreme manipulation/misrepresentation to make unlawful gains. They accordingly desire that the case should be handed over to the CBI and Foreign Exchange Enforcement Directorate immediately for a detailed probe with the instructions that it should be done expedi-

tiously with a view to launching prosecution against the offenders including Government officials who were responsible to take care of country's interests. The Committee would await a report in this regard within three months.

1.73. It is also clear that the proposals of the company and the various claims made and documents produced by it have not at all been carefully scrutinised by the various authorities of Government obviously to give advantage to the offender. The Committee, therefore, desire that because it is a serious economic offence on the basis of CBI and Foreign Exchange Enforcement Directorate investigations, severe and exemplary action should be taken against the officers for their lapses under advice to them.

CHAPTER II

SILVER OXIDE

Audit Paragraph

2.1. There is a great demand for silver metal in the world markets and as such silver serves as a second line of free foreign exchange reserve for our country. 'Legal exports' of silver and gold bullion bars were Rs. 3.31 crores in 1968-69, Rs. 5.16 crores in 1969-70, and fell to nil in 1970-71 as world silver prices fell.

2.2. Silver bars of cent per cent purity on being immersed in nitric acid produce silver nitrate which is a silver salt with 63.5 per cent silver content. Silver nitrate, on being treated with sodium hydroxide, produces black silver oxide crystals which are separated from the solution by washing with distilled water. The silver metal content of silver oxide is 93.1 per cent and is easily recoverable. When heated above 250 degrees centigrade, silver oxide rapidly dissociates into metallic silver and free oxygen.

2.3. Under the Exports (Control) Order, 1968 issued under sections 3 and 4(a) of the Imports and Exports (Control) Act 1947, exports of silver which has not undergone any process of manufacture subsequent to rolling are not normally allowed. Since 1967 it has been the policy of Government not to allow export of manufactures of silver to East European countries. Save this, manufactures wholly or mainly of silver were permitted, upto 21st January 1969, subject to the condition that f.o.b. value of the article was not less than 105 per cent of the value of silver contained in the article. This value is to be determined having regard to the latest prices in London or New York, whichever is higher. Under the import trade control policy for registered exporters for the period April 1968 to March 1970 certain drugs were specified and for them specific rates of import replenishment licences were prescribed, while for all other drugs not so specified the import replenishment licence was 20 per cent of the f.o.b. value. Further, cash assistance of 20 per cent of the f.o.b. value was admissible (from out of the marketing development fund) for exports of drugs not specified.

2.4. A firm in Madras had been exporting silver nitrate. Since it was considered that export of silver nitrate should not be allowed, the item "manufactures wholly or mainly of silver" occurring in the schedule to the Exports (Control) Order, 1968 was on 22nd

January 1969 modified to read as "manufactures and products wholly or mainly of silver and silver salts with more than 50 per cent silver content". Since silver nitrate is a silver salt with 63.5 per cent silver content, this modification of the export trade control entry thus prohibited export of silver nitrate. During February to June 1969 the said firm exported Rs. 52.51 lacs worth of silver oxide to a East European country (with which our country has rupee payment arrangements). Since it was considered that export of silver oxide was not in the public interest on 23rd July, 1969 the export trade control entry was further amended so as to prohibit exports of silver salts, silver chemicals and compounds with more than 50 per cent silver content as well as manufactures and products wholly or mainly of silver with more than 50 per cent silver content.

2.5. The firm submitted (1969) applications for export assistance (20 per cent import replenishment licence and 20 per cent cash assistance) on the ground that silver oxide (British Pharmaceutical Codex, 1934) was a drug covered by the entry "Drugs and Drugs intermediates—all others" in the cash assistance and import replenishment licence rate lists. British Pharmaceutical Codex, 1934 had been replaced by later editions. Years ago silver oxide was being used as a drug for treatment of hysteria but is no longer used so. For many years silver oxide does not find a place in any pharmacopoeia of the world including the British Pharmacopoeia/ British Pharmaceutical Codex. (British Pharmacopoeia is prepared and published, under a statute, at intervals of 5 years by the General Medical Council of Great Britain, while British Pharmaceutical Codex is prepared and published by the Council of Pharmaceutical Society of Great Britain). The Drugs and Cosmetics Act 1940 of our country prescribes that drugs not included in the Indian Pharmacopoeia should have standards of identity, purity and strength specified for the drugs in the edition of Pharmacopoeia of other countries for the time being and such other standards as may be prescribed. The Drugs and Cosmetics Rules 1945, issued under the Drugs and Cosmetics Act, 1940 prescribe that for drugs (produced in our country) for which no standards of identity, purity and strength are specified in the latest edition of the British Pharmacopoeia but are specified in the earlier editions of the British Pharmacopoeia, the standards of identity, purity and strength shall be those occurring in the latest edition of the British Pharmacopoeia, in which they are given. Although silver oxide is not specified in the latest editions of the British Pharmacopoeia and the British Pharmaceutical Codex, since it was specified in the earlier British Pharmaceutical Codex of 1934, Government concluded (in 1972) that

silver oxide was a drug export of which was entitled to 20 per cent import replenishment licence and 20 per cent cash assistance (under the policies in force).

2.6. Having regard to the fact that silver oxide is no longer mentioned in the pharmacopoeias of any country and also having regard to the quantity exported (13.20 tonnes) it is doubtful whether the commodity exported was a drug or was intended to be used as drug. The principle behind issue of import replenishment licence is generally to replace the import content of an export product. In this particular case there was no import content at all. For this export Rs. 10.50 lakhs were paid as cash assistance and import replenishment licence for Rs. 10.50 lakhs (c.i.f.) in free foreign exchange was issued to the firm (May, 1972). Whether this export of silver oxide and the incentives given for its export were in the interest of our country's economy is doubtful.

[Paragraph 30 of the Report of the Comptroller & Auditor General of India for the year 1971-72, Union Government (Civil)]

2.7. The Committee desired to know the reasons for not including "silver chemicals and compounds" along with silver salts in the Export Control Order Amendment of January, 1969. The Chief Controller of Imports and Exports stated during evidence: "It appears that at that time, only silver nitrate was in question. An amendment was proposed in the Export Control Order and it was suggested that all silver chemicals also should be banned. This matter was naturally taken up with the DGTD who are technical experts. They suggested a slight amendment in the language and the language was suggested as it appears in the order of 22nd January, 1969 viz. 'silver salts with more than 50 per cent of silver content'. Since silver nitrate was a silver salt, it appears that they took only silver nitrate into consideration and I suppose this could be called a slip-up."

2.8. The witness added. "The words 'silver-salts' and 'silver compound' both should have been added... it was certainly a slip-up. What the Ministry had suggested at that time were the words, 'manufactures and products wholly or mainly of silver including chemicals'. DGTD said that it was not properly worded and that the proper wording should be 'silver salts containing more than 50 per cent silver content' and that these be substituted. At that time, I think none of us in the Ministry was technically competent to know the difference between silver salts and silver compound. It only appeared later on that silver oxide was not a silver salt but that it was a silver compound."

2.9. In a written reply, the Chief Controller of Imports and Exports further stated: "When the Export Control Order was proposed to be amended in January, 1969 the intention all long was that the words, 'manufactures wholly or mainly of silver, appearing in the Export Control Order 1968, should be amended as, 'manufactures and products wholly or mainly of silver including chemicals', and the above words were proposed by the CCI&E to the Ministry of Commerce. The Ministry of Commerce discussed the matter with the Industrial Adviser, who suggested that in place of the words 'including chemicals', the expression, 'Silver Salts containing more than 50 per cent silver content' be substituted in the amendment proposed by the CCI&E, saying that this substitution would clarify the position better. The Ministry of Commerce agreed with the change suggested by the Industrial Adviser (DGTD)."

2.10. An O.S.D. in the Office of the CCI&E commented on the claim made by the firm. His relevant comments dated 8th June, 1970 are reproduced below:

"(3) The Drugs Controller of India reported, *vide* his demi-official letter dated 29-5-1969, that 'the export of silver oxide by a firm in Madras is being done on a speculative basis... has no medicinal value'. The Madras office was asked not to pay any more export incentives to the said Indian firm and their files were called for; and the export of silver compound was banned from 23-7-1969. On receipt of the files from the JC Madras, there has been some exchange of notes with the Drugs Controller."

(4) In his last note dated the 13th May, 1970, the Drugs Controller has observed that he agrees that the following points support the contention of the party that the product exported may be treated as a drug for purposes of export:

(i) Silver oxide has been accepted by the customs as a silver compound.

(ii) It had been included in the manufacturing licence issued by the State Drug Controller.

(iii) The Assistant Drugs Controller (India) has issued no objection certificate to the export of the product."

(5) My comments on these points are given below:

Point No (i)

'Silver Oxide' is defined as a chemical item in the Chamber's Technical Dictionary, and to be exact is a silver compound. The shipping bills indicate that the product was packed in tins and exported as 'drugs and pharmaceuticals Silver Oxide BPC 1934'. From the photo-stat copy of the order received from the foreign buyer, it appears that the product was required to be packed in polyethylene jars and that 'BP & Merck Index 7th ed, was the original specification for Silver Oxide, which was scored off and substituted by 'BPC 34' specification. This change in the specification is not attested by the foreign buyer. It is, however, noticed from the letter of credit, photostat copy of which is available in the file, that this change is not made in it. I have learnt from Dr. S. S. Gothoskar, Deputy Drugs Controller, that 'Merck Index' relates to chemicals. According to BPC 1934 specification, silver oxide for being used as a medicine was required to be stored in 'amber-tinted bottles'. The fact that the product was exported in tins proves that the product exported was not a drug but a chemical. i.e. an oxide of silver, on exports of which neither replenishment licence nor cash assistance is admissible. It is not understood how the Customs authorities failed to detect this point and accepted the classification of the product under drugs."

Point No. (ii)

Here I would quote the opinion of the Drugs Controller, in his note dated 7-3-1970, with which I agree: "...if the exporting firm had placed an order for silver oxide BPC (this should not be difficult to manage if the exporting firm in this country is in collusion with foreign firm), the local firm might have thought it best to cover itself by securing a manufacturing licence under the Drugs and Cosmetics Act. Whenever such cases are referred to the State Drugs Control Authorities they issue licences for the manufacture of such additional items particularly when the exporters ask for pharmacopoeial quality."

Point No. (iii)

Here I would reproduce an extract from the D.O. letter No. 34-E/647, dated nil, from the Assistant Drugs Controller (India), Madras, forwarded by the Drugs Controller with his DO No. 6-9/69-D dated 29th May, 1969:

'Silver oxide BPC 1934 doesn't figure even in the 22nd addition of Extra Pharmacopoeia 1943 (edition) and is not in vogue now. Obviously the foreign firm is obtaining this for other purposes. The metal is easily recoverable from this. However, as no objection to this can be taken against these exports by this office, the usual 'No Objec-

tion' has been given. Besides, the goods are manufactured against their manufacture licence No. 43 issued by the State Drugs Controller.'

(6) According to the opinion of M/s. Italab, Madras 93.1 per cent of silver could be extracted from silver oxide and the BPC 1934 says that '...when heated above 2500 rapid dissociation into metallic silver and oxygen ensues'. This shows that the process of taking out silver from silver oxide is very easy.

(7) Export of silver from India is banned. Manufactures and products wholly or mainly of silver were banned and silver salts with more than 50 per cent silver content was also banned with effect from the 22nd January, 1969 (vide Export Trade Control Order No. E(C) 1968/AM(20). The party noticed that silver salts with more than 50 per cent silver content were banned, and thought that they should export silver compound to some East European country to make some quick money, where as the price of silver there was very high. Therefore, they took the following steps in quick succession to export silver under the garb of silver oxide:

Date	Action taken
26-2-1969	Deal to export 14,000 kilos of silver oxide valued at Rs. 58.45 lakhs was finalised with the foreign firm.
5-3-1969	Applied to the State Drugs Controller Madras for inclusion of silver oxide as an additional repacking item in their manufacturing licence.
14-3-1969	The State Drugs Controller made endorsement that the name of silver oxide BPC 1934 (e.g. 20-231-8) is endorsed as an additional repacking item in their manufacturing licence.
17-3-1969	Formal order for export of silver oxide of 13,209 kilos for Rs. 58.45 lakhs issued by the foreign firm.
24-3-1969	Advice received from the bankers of the exporters that L/C No. 395176 dated 14-3-1969 has been opened.
24-3-1969	First consignment of 785 kilos valued at Rs. 3.40 lakhs exported.
28-3-1969	Second consignment of 800 kilos valued at Rs. 3.46 lakhs exported.
28-3-1969	Third consignment of 600 kilos valued at Rs. 2.60 lakhs exported.
31-3-1969	Fourth consignment of 250 kilos valued at Rs. 1.08 lakhs exported.

Soon after, it seems, in the months of April, May & June, they exported the remaining consignments. It would thus be seen that the whole thing was so neatly planned and executed to defraud the Government; and the party succeeded in exporting huge quantities of silver in the shape of silver oxide in a few months and obtained cash assistance of Rs. 2.11 lakhs on their exports of Rs. 10.54 lakhs @20 per cent in March, 1969 to which they were not entitled. Their other cash assistance claims and the replenishment licence claims @ 20 per cent of the f.o.b. value of export are pending with the JC Madras, under instructions from this office.

(8) In order to get export incentives on the exports of silver oxide, the party declared the product as an item of drugs and pharmaceuticals in their export documents. Since they could not manufacture huge quantities of silver oxide, they were careful to get this item included as 'an additional repacking item' in their manufacturing licence. While scoring off 'BP & Merck Index 7th ed.' specification from the order and substituting it by 'BPC 34' the party deliberately wanted to mislead the Customs, the Drugs Controller and the licensing office so that they might be able to get export incentives also. But, they forgot that when silver oxide was used as a medicine it was required to be stored in 'amber-tinted bottles' and not polyethylene jars or tins.

(9) Another point which makes the whole deal doubtful is that how after the ban on export of silver products and salts on 22-1-1969, suddenly the (foreign) company, the foreign buyer, became alive to the efficacy of this outmoded drug and place a huge order for supply of 14,000 kilos of silver oxide for Rs. 58.45 lakhs on the Indian firm. It is beyond comprehension how in this short period the extinct drug became so fabulously popular in (the foreign country.) The party claimed 15 per cent normal assistance plus 5 per cent additional assistance as a manufacturer exporter who had no base period of exports for this item. It is, therefore, clear that they exported silver oxide for the first time to the foreign country. That they could secure such a huge order as a new entrant for such an obsolete drug in a short time indicates that the (foreign) company was acting in collusion with the Indian exporter. This is further borne out by a letter from the foreign buyer dated 18th September, 1969, in which they certify as follows:

'We regret to note that your incentives have been withheld by the Government of India on the grounds of the end use of Silver Oxide. We wish to certify that Silver Oxide BPC which has been imported from your esteemed firm has been used as a drug...'

Unless the foreign buyer is acting in collusion with Indian exporter, no foreign buyer worth the name would give this kind of certificate. Therefore, the whole deal of the party is a deliberate attempt on their part to export silver under the cover of silver compound, to defeat the Export Trade Control and simultaneously obtain export incentives on those exports.

(10) I, therefore, feel that this is a fit case for being handed over to the CBI for a deeper probe.

"(11) We may also ask the JC Madras to take action to recover the cash assistance already paid and reject all the pending applications."

2.11. The Committee understand that the matter was finally referred to the Solicitor General for India. In his opinion dated the 28th April 1972 he held the view that silver oxide was a 'drug' and was not subject to Exports (Control) Order.

2.12. During evidence, the Chief Controller of Imports and Exports stated: "the party had been putting in their claims for cash assistance and IRL benefits. After the matter came to our notice, we went into it, and there was feeling within the department that this should not qualify as a drug. Within the department, there was quite a strong move to see that this should not be declared a drug, it could be declared a chemical and if it had gone out as a chemical it did not qualify for cash assistance and the other benefit as a drug. The question being discussed was whether it was a drug. This matter became a subject of controversy. It went on for almost three years and only at the end of it, with a lot of correspondence and lot of examination, reference to Law Ministry many times, was it finally disposed of. The Department was, may I say, overruled in a sense by the Law Ministry. Of course, it is Government's decision, but the Law Ministry's opinion was there."

2.13. In reply to another query, the Secretary, Ministry of Commerce, stated: "There are two points here. One is whether the Commerce Ministry is competent to ban the export of any drug. I would say yes. The Law Ministry does not come in the matter of prospective orders. But what was under debate for 3 years was not whether the Commerce Ministry was competent to put a ban—it was banned effectively from the day, the Ministry decided that it should be hanned but what were the rights of the party which did make export at a time when the formal ban was not there."

2.14. When the Committee pointed out to the witness that according to legal opinion silver-oxide was a drug and a drug could be exported without attracting the jurisdiction of the Chief Controller of Imports and Exports, it might be legal to export silver oxide even after the issuance of the order amending the Export Control Order in July, 1969, he stated "Exports are subject to Export Control Order. There are certain items on which we have said that there is no ban on exports. There are certain items on which exports are allowed under certain conditions. There are certain others on which specific licence has to be issued. The Notification of July, 1969, which banned the export of silver salts and silver

compounds is all pervasive. It cannot be challenged and we are perfectly safe in holding that any silver salt or compound whether in the name of drug or chemical cannot leave the country."

2.15. When it was pointed out that anything made out of silver is a manufacture of it, the CCI&E stated that "we took up this point to the Law Ministry also, we also thought the same way, but unfortunately the Law Ministry did not see the way, we saw. They refused to accept this."

2.16. The witness further informed the Committee that "Based on legal advice, the manufacture of silver, silver nitrate and silver oxide are three distinct things."

2.17. During evidence the attention of the witness was drawn to the two contradictory opinion expressed by the Drug Controller of India in his letters dated 18th February, 1970 and... In the first letter he held the view that "the contention of the firm that they had exported silver oxide in the honest belief that it was a drug is difficult to believe." In the second letter he said "he has not raised any objection to the export of silver oxide as a drug." and again, "it is agreed that in the context of the no objection certificate given by the Drug Controller, it would be difficult to resist the contention that silver oxide is a drug for purposes of export."

2.18. The witness stated that "...in the matter of expressing an opinion on matters like this, it is quite possible that at one stage a certain view is expressed, but when a representation is made to the Department and they make an analysis of the case, I think it is incumbent on civil servants to examine their presentation made and then, in case "the party is in the right, to revise their own opinion."

2.19. Referring to the Drugs Controller of India in his letter dated 29th May 1969, the Chief Controller of Exports and Imports stated during evidence that the letter was received by us on 2nd June and meanwhile, a precautionary step was taken by writing a letter on 4th June to the Joint Chief Controller at Madras, telling them that this was what the complaint said and exports of that commodity should be stopped, and immediately a confirmation was received from the Madras Joint Chief Controller to say that he had advised his own staff as well as the Customs Department accordingly, and exports of this were stopped thereafter. The actual notification took place some time later in July (23rd July 1969) but stoppage of this export took place on 4th June 1969."

2.20. The witness further stated: "The policy of the Government relating to silver manufactures was there, that is to say, that they should not be sent out to East European Countries, but there was no order relating to drugs. It happens that this was going in the form of a drug, and no one took this to be a silver manufacture and so, I suppose there was no question of any one watching whether silver was going out and it came to light only in discussion."

2.21. The witness added: "drugs did not require any export licence. They were freely exportable. No one needed a licence to export drugs, whatever the form or content of the drugs, they can go out."

2.22. In reply to another question, the Secretary, Ministry of Commerce stated: ".....whether the export was not under-invoiced, it is not possible to verify when thousands and thousands of export transactions are taking place."

2.23. On the import replenishment licence for Rs. 10.50 lakhs (c.i.f.) in free foreign exchange issued, the firm itself did not make any import but they obtained nomination for other manufacturers and the licence was passed on to them.

2.24. The Committee desired to know whether the Government found out how the items imported against this replenishment import licence were utilised, the Chief Controller of Imports and Exports stated: "No, we did not, it is not done also." The Secretary, Ministry of Commerce further stated: ".....replenishment is not worked out for thousands of items, each of them separately, into minor details. It is worked out in some kind of group-list system. There is a shopping list attached to a product grouped for export purposes. It is not verified because it serves the purpose of larger production and a larger export turnover. So long as the item that is imported is within the permitted list, perhaps a further follow up is not needed where the nomination arrangements have taken place within the authorised rules." The witness further stated: "Our own rules had been consciously framed after considering all aspects and they permit a person to nominate another and the firm to nominate another and the exporter to nominate a manufacturer and give him the right to use the raw materials. For instance, there is a merchant exporter. He has no factory of his own. But he has to have a pipeline to supply for his next round of exports. Therefore, on the licence that he gets, he is allowed to nominate a manufacturing company to manufacture on his behalf and to make more stuff available for export. This is the rationale behind this system of nomination."

2.25. Explaining further the nomination procedure applicable to replenishment import licences, the CCI&E stated: "The nomination procedure requires that the man must go to our office and tell us that 'I want to nominate such and such manufacturers on my licence.' The name of that manufacturer is on record with us. It is not as if we do not know the party. We know which the party is, to whom the nomination has been made. We also know that man must have an actual user's licence, that is to say, he is actually engaged in the manufacture of a product which is a like product, and in the same group."

2.26. When asked whether the Government tried to find out as to how much export the nominee firms performed with the help of import replenishment import licence, the witness replying in negative stated that "it is left to them to utilise the licence for purposes of expanding production and their production base and the exports, we hoped, will take care of themselves gradually with the aid of imports."

2.27. In reply to another question, the witness stated that "Import replenishment schedules are drawn up on the basis of technical advice. They compute it for a number of products. The technical people find it almost an impossible proposition to give the import replenishment with respect to each item separately. What they do generally is to list them into groups and for each group they work out some kind of average and make it the replenishment percentage. In the case of silver oxide the import replenishment percentage was 20 per cent."

2.28. When asked that since there was no imported content in silver oxide exported by the firm, how was import replenishment allowed to the firm, the Ministry in a written reply stated: "As a general rule, the rate of import replenishment indicated against various products represents the approximate import content in these products. But in the case of 'composite' products, the import content for the purpose of replenishment against export has been worked out on the basis of estimated average. 'Drugs & Drugs Intermediates' is an example of this type of products. It is a 'Composite' product which consists of hundreds of items. Technically, for each of these items, a separate rate of replenishment should have been worked out. But administratively, this was found difficult from the point of view of formulation of policy and its speedy implementation. To overcome this difficulty, an estimated average of the requirements of imported inputs for this industry has been taken as the rate of

import replenishment for the 'Composite' products as a whole, barring a few items for which a separate rate of replenishment has been given. Accordingly the silver oxide which was exported before its export was banned in July 1969, having been treated as a "Drug" as a sequel to the various discussions and the opinion given by the Ministry of Law and the Solicitor General of India, became entitled to the same import replenishment which was admissible for any other category of Drugs and drug intermediates."

2.29. In reply to another question, the CCI&E stated that "the replenishment licence has got to be within the same product category. He cannot import engineering goods for export of chemical items. To this extent we are keeping watch."

2.30. The Committee learn that on 3rd July, 1973, the Ministry of Commerce had informed the Audit regarding the import licences issued for the import of 'Lactose' against the exports made by the firm.

2.31. Asked to indicate how lactose could be imported against the export of silver oxide, the Ministry of Commerce stated in a note: "The import replenishment licence in the case of exports made by M/s....., Madras, was issued to their nominee companies, who were manufacturers of drugs. In such cases the manufacturer who has been nominated as the manufacturer of an exported product can import items permissible in the 'Shopping List' as given against the exported product in Section II of the Import Trade Control Policy (for Registered Exporters) Vol. II. Apart from these other items can be imported as stated below. This flexibility has been given so that export entitlements can be used for strengthening export production and production in allied lines of manufacture. These facilities are:—

- (a) A manufacturer-exporter and a nominee-manufacturer can import permissible items appearing in his Actual User licence, provided the A.U. licence pertains to the same product Group to which the exported product belongs.
- (b) A manufacturer-exporter and a nominee-manufacturer can import any other permissible items recommended by the sponsoring authority and cleared by the DGTD.
- (c) An export house can import, against its own exports, the items permissible in the shopping list in the relevant 'Category' as a whole or a 'product Group' as a whole where there is no category. Against a transferred licence,

an export house can import items in the shopping list in the Product Group(s) as a whole for which the export house has been granted eligibility certificate. A degree of flexibility has been given to eligible Export Houses to enable them to meet the requirements of their supporting manufacturers in respect of imported materials according to export needs.

- (d) Manufacturer-exporters and nominee-manufacturers can utilise a part of their import entitlements for import of machinery, tools, jigs, fixtures etc.

2.32. According, in this particular case, the nominees being the nominee-manufacturers they could import permissible items appearing in their Actual User Licence, namely, 'Lactose', which appeared in their A.U. licence and which pertained to the same Product Group, to which the exported product belonged, in accordance with the provisions of para 38 of Part 'B' of Section I of I.T.C. Policy (for Registered Exporters) Vol. II for the year April 1972 to March 1973."

.. 2.33. Silver essentially serves as a second line of free foreign exchange reserve for our country and its export is wholly against national interest. A firm in Madras (M/s. Dadha Drugs & Pharmaceuticals Pvt. Ltd.) had been exporting silver nitrate. Silver nitrate is a silver salt with 63.5 per cent silver content. Metallic silver can be easily recovered from silver nitrate. An amendment to the Export Control Order, 1968 was proposed by the Chief Controller of Imports and Exports to ban export of "manufactures and products wholly or mainly of silver including chemicals." The amendment was, however, carried out by the Ministry of Commerce w.e.f. 26th January, 1969 in consultation with the Industrial Adviser to read as "manufactures and products wholly or mainly of silver and silver salts with more than 50 per cent silver content" leaving a loophole in the law which could be exploited by unscrupulous exporters of silver. This prohibited export of only silver nitrate which is a silver salt. Immediately thereafter, between the period February to June, 1969, the Madras firm exported Rs. 52.51 lakhs worth of silver oxide to an European country. The silver metal content of silver oxide is 93.1 per cent and is very easily recoverable. To plug the loophole in the Export Control Order, 1968 it had to be further amended on 23rd July, 1969 to prohibit also export of silver chemicals and compounds with more than 50 per cent silver content. The Committee are very much concerned that a loophole was kept while initially amending the Export Control Order which was successfully exploited Internationally by the firm.

to move silver out of the country in the guise of silver oxide. They desire that responsibility should be fixed for this lack of care in drafting the amendment and action taken under advice to them.

2.34. It is surprising that the firm had claimed and obtained cash assistance to the extent of Rs. 10.50 lakhs and import replenishment licence for another sum of Rs. 10.50 lakhs on the ground that the silver oxide exported was a drug. This claim was accepted on the basis of the legal opinion given by the Solicitor General. However, on going through the facts of the case as analysed by an Officer on Special Duty in the Office of the Chief Controller of Imports & Exports, it appears that the silver oxide was actually exported as a chemical and hence it was not entitled to any export incentive. The Committee would, therefore, like to know how the cash assistance and the import replenishment licence were allowed in this case apparently without fully going into the fact of the case.

2.35. It appears that the firm had indulged in serious malpractices under the very nose of the Government as indicated below:

- (i) It seems that the foreign buyer required the product to be packed in polyethylene jars. Although according to BPC 1934 specification, silver oxide for being used as a medicine was required to be stored in "amber-tinted bottles".
- (ii) The original specification given in the purchase order as "BP & Merck Index 7th ed." applicable to chemical seems to have been substituted by "BPC 34" without being attested by the foreign buyer.
- (iii) The Export Control Order was initially amended on 22nd January, 1969. Within a month and 4 days thereafter the firm finalised the deal to export 14,000 Kgs. of silver oxide valued at Rs. 58.45 lakhs with the foreign firm. Within another month they obtained the necessary licence from the State Drugs Controller and formal orders from the foreign firm and received from the bankers of the exporter advice that letter of credit had been opened. Further, 4 consignments were exported between the period 24th March, 1969 to 31st March, 1969.

2.36. Thus in the words of Officer on Special Duty "the whole thing was so neatly planned, conspired and executed to defraud the Government and the party succeeded in exporting huge quantities of silver in the shape of silver oxide in a few months." There seems to

have been a multiple collusion with the foreign buyer. The Committee understand that years ago silver oxide was being used as a drug for treatment of hysteria but is no longer used so. The utility of such a huge quantity (roughly 11 crore doses) as drug imported into a small country within such a short period from a firm which did not export it earlier, is seriously in doubt. Further, it appears that the exports were under-valued. The Committee fail to understand how unless some officials were involved it would have been possible for the exporters to complete their job so successfully. The Committee would, therefore, very much require that the matters should be immediately handed over to the CBI and Enforcement Branch for a probe. Persons found guilty of such a heinous economic offence should get exemplary punishment.

2.37. Arising out of this case is the basic question how import replenishment could be allowed for an item of export which does not have any import content. It is obvious that such items should be altogether excluded from the purview of the import replenishment scheme. Surprisingly, in this case the firm made over the import replenishment licence for import of lactose to foreign pharmaceutical firms operating in India. The Committee fail to understand how import of lactose could have helped expansion of production and the exports of the firms concerned. This calls for an immediate explanation. The Committee desire that the Ministry of Commerce should carefully go into these points so as to take steps to ensure that export incentive is not abused in any manner. Economic offence should be curbed ruthlessly and none should be spared.

CHAPTER III

DEHYDRATED ONIONS

Audit Paragraph

3.1. To impart dynamism to the country's efforts to expand and diversify exports, several measures including finance for export, assistance and incentives, transport and drawback facilities, etc., have been undertaken. Under one such measure cash assistance at prescribed percentages of f.o.b. value is given to registered exporters for specified exports.

Our country has been a traditional exporter of onions. Our exports of onions were:

	Rupees in crores.
1967-68	4.17
1968-69	4.57
1969-70	5.92
1970-71	6.21
1971-72	2.28

3.2. In recent years a number of units have been licensed for production of dehydrated onions, besides other vegetables. In 1971 the number of such units was twelve. Early in 1970, one of these units 'A' having a licensed capacity of 900 tonnes represented to Government for grant of cash assistance for its exports of dehydrated onions. In a meeting held as a sequel on 18th July, 1970 the representative of the unit was told (by Government) that whatever decision is taken on its request for cash assistance would be given effect to from that date. After obtaining concurrence of the Finance Ministry, necessary sanction for grant of cash assistance of 20 per cent of the f.o.b. value for exports during 18th July 1970 to 31st March 1972 was issued in May 1971. This sanction was for exports by that unit only. According to the Government of India's letter, exports of dehydrated onions by that unit during the first one year starting from 18th July 1970 were to be Rs. 25 lakhs. Upto July 1971 that unit, however, exported only Rs. 4.76 lakhs worth of dehydrated onions while there has been no export (upto September 1972). The exports were to free foreign exchange countries.

3.3. In April 1972 Government issued general orders sanctioning 20 per cent cash assistance for all exports of dehydrated onions from 18th July 1970. Unlike in the case of unit 'A' mentioned in the preceding paragraph, no other unit manufacturing dehydrated onions had been told earlier that Government had been considering the question of grant of cash assistance for exports of dehydrated onions with retrospective effect. This being so, the Government order of April 1972, in so far as it had retrospective effect, could not have the effect of promoting exports (of dehydrated onions), which is the objective of cash assistance.

3.4. Cash assistance for exports of dehydrated onions has been continued in 1972-73. No cash assistance is given for export of any other processed vegetables (in vegetable form).

3.5. Of the units producing dehydrated onions, export obligation (because of capital goods imports) had been imposed on another unit 'B'. Export obligation is 80 per cent of the production of unit 'B'. Alongwith others this unit also is entitled to and has been receiving cash assistance on its export of dehydrated onions. During July 1970 to March 1972 it had exported dehydrated onions worth Rs. 21.70 lakhs.

[Paragraph 28 of the Report of the Comptroller & Auditor General of India for the year 1971-72. Union Government (Civil)].

3.6. The Committee learnt from Audit that a meeting was held on 6th June 1970 in the room of the then Secretary (FT) to consider grant of cash assistance on the export of fresh fruits, vegetables and flowers. After detailed discussion it was agreed that instead of announcing a general assistance scheme, the Ministry of Foreign Trade should invite specific proposals for exports of these products and after scrutiny of the schemes by an inter-ministerial group consisting of the Ministries of Foreign Trade, Finance, Food and Agriculture and the State Trading Corporation, if the schemes were found attractive, cash assistance upto twenty per cent could be granted to them. It was stipulated that the schemes should specifically indicate method of procurement of raw materials, arrangement for proper processing, acceptance of the product vis-a-vis quality etc. in the foreign markets, export potential of the product and the exports targets, cost of production, loss if any, marketing arrangements etc. In this meeting a deliberate decision was taken to have a project approach for giving cash assistance. The intention was that only such products which benefit by the subsidy for a limited period of 3-4 years and which are capable of becoming self-supporting thereafter

should be assisted. Hence a project approach was born, so that factors like export potentiality, export viability etc. should be taken into account.

3.7. In June 1970, the Processed Foods Export Promotion Council recommended to the Ministry of Foreign Trade sanction of cash assistance on export of dehydrated onions intimating the names of two units who were in the trade then. M/s. 'A' whose processing plant is located at Ghaziabad, U.P., were given a licence on 17th April 1970 for production of dehydrated fruits and vegetables. The licensed capacity of the firm was 900 tonnes. They are stated to have gone into production in April, 1970 itself. The firm was allowed to import their plant from Bulgaria but no export obligation was imposed on them at the time of issue of import licence for capital goods and or when they got their industrial licence.

3.8. Another firm, M/s. B. whose processing plant is located at Nasik, were given a licence on 16-9-64 for production of dehydrated onions. In return for the capital goods import licence issued to this firm, an export obligation to the extent of 80 per cent of their production was imposed on them. Their licensed capacity was 3,000 tonnes. They are stated to have gone into production in April, 1970.

3.9. On 24th July, 1970, the proposals made by M/s. A and M/s. B for the grant of cash assistance on the exports of dehydrated onions were considered at an Inter-Ministerial Group meeting which was attended by the Director, Export Promotion, Ministry of Foreign Trade, Joint Commissioner, Export Promotion, Ministry of Food and Agriculture, Assistant Director General, Indian Council of Agricultural Research and the Assistant Development Officer, Directorate General of Technical Development.

3.10. At this Inter-Ministerial Group meeting, the Director, Export Promotion, Ministry of Foreign Trade had explained that "according to the recent scheme finalised in consultation with the Ministry of Finance, cash assistance on project basis can be made available on the exports of both fresh and processed fruits and vegetables upto a maximum limit of 20 per cent. An Inter-Ministerial Group consisting of Ministry of Food & Agriculture, DGTD Ministry of Finance and Ministry of Foreign Trade is to examine such requests. It is to be ensured that the project brings out satisfactorily method of procurement of raw material; satisfactory and adequate arrangement for proper processing; acceptance of the product vis-a-vis quality etc. in the foreign markets; export potential of the product and the export targets envisaged in the project. After all these points have been satisfactorily explained by the applicants, his cost of production has to be examined and if there is a loss, the same can be met upto an extent of 20 per cent. " According to the Ministry of Commerce

the two cases under consideration were examined in detail, with this background, as indicated below:

3.11. "(I) (A) This is a unit which has been recently set up with Bulgarian collaboration. The party has been able to satisfy the Ministry of Foreign Trade by production of letters from the buyers etc. that the quality of their product is acceptable in the European market. Documentary evidence has also been produced to the Ministry of Foreign Trade that ready buyers were available for the product provided the same was offered at competitive prices. In view of this the economics of the production of this unit was gone into and two main observations were made.

(i) The cost of raw material was high as compared to the cost of raw material in the case of... (B). The reason for this being that the... (A) plant is located in Ghaziabad where the raw material has to come from Nasik in Maharashtra. Representative of... (A) had also explained that in order to get the quality acceptable in the European market, they have to buy large size onions and of uniform grade. They have, therefore, to pay a little higher price than for ungraded onions.

(ii) Overheads and depreciations etc. amount to substantial percentage of the cost. It was felt that in the beginning Government is to come to the assistance of... (A) in order to neutralise the high cost of production, the expenditure on such items should not be taken into account for the purposes of determining the quantum of assistance. The following cost of production was finally accepted by the committee:

(i) Raw materials.	Rs. 4400*
(ii) Fuel and Power	Rs. 620
(iii) Labour charges	Rs. 760
(iv) Packaging	Rs. 1000
(v) Freight	Rs. 314
(vi) Clearing charges.	Rs. 317
TOTAL	Rs. 7411

3.12. The expected f.o.b. realisation is around Rs. 5,600 per tonne. The loss thus works out to more than 30 per cent. The Committee, however, felt that there was scope for effecting economy on labour charges and raw material as the maximum assistance under the scheme can only be 20 per cent. The Group recommended that....

* As per requirement, 11 ton at the rate of Rs. 40 per Qtls. as was claimed by the Company.

(A) may be granted cash assistance of 20 per cent on exports of their product (dehydrated onions).

3.13. Taking into account the total production capacity... (A) can at best produce 800 tonnes of dehydrated onions per year. Taking into consideration the fact that onions of the required quality may not be available throughout the year and also that part of the production may have to be disposed of in the internal market, in order to offset some of the losses an export target of 450 tonnes valued at approx. Rs. 25 lakhs was considered reasonable. This export target is also acceptable to... (A). It was also recommended that the cash assistance may be made available in the first instance for one year after which the performance of this firm may be reviewed along with their cost of production etc.

3.14. While considering the case of... (B), it was observed that the party has not so far been able to establish the acceptability of their product. The representatives of... (B) had met the officers in the Ministry of Foreign Trade and explained that they had sent samples to U.K. and Western Europe and the buyers' reaction was being awaited. The representative of this firm also could not indicate with any certainty the likely exports of their units as the quality of the product was yet to be accepted by the buyer. The Committee considered that before any cash assistance under the project scheme can be recommended to the Ministry of Finance, it was necessary to be assured of the capacity of the firm to export. It was decided that a communication may be issued by the Ministry of Foreign Trade asking the party to bring up documentary evidence regarding their acceptance of quality by the foreign buyer, documents pertaining to definite offers by the buyers, likely exports during the year etc. On receipt of full information, their case could be again considered by the Committee.

3.15. In pursuance of the decision arrived at the Inter-Ministerial Group meeting, the case of... (A) was recommended to the Ministry of Finance and after obtaining their concurrence, necessary sanction for grant of cash assistance against exports of dehydrated onions at the rate of 20 per cent of the f.o.b. value of exports with effect from 18th July, 1970 upto 31st March 1972 was issued on the 19th May, 1971. Retrospective sanction was given from 18th July, 1970 in view of the fact that on that date the representative of the Unit was told by the Government that whatever decision is taken on their request for cash assistance would be given effect to from that date. The sanction letter *inter-alia* stated that "your export obligation for the first 12 months (starting from 18th July, 1970) will be Rs. 25 lakhs", and that "your performance will be reviewed

at the end of July, 1971. You may please submit quarterly reports of your export performance to the undersigned."

3.16. Subsequently, on a query dated 18th July, 1971, from the Office of the Chief Controller of Imports and Exports, New Delhi, the Ministry of Foreign Trade had clarified through their letter dated the 3rd August, 1971 that "export target of Rs. 25 lakhs for the first year referred to in para I thereof (sanction letter dated 19-5-1971) is not related to the grant of cash assistance." The Ministry further clarified that "it will however be taken into account while continuing cash assistance for subsequent periods."

3.17. M/s. (A) were paid Rs. 59,455 on the 9th August 1971 for exports of 43 tonnes of dehydrated onions worth Rs. 2,92,2979 exported to U.K. during the period from July 1970 to March, 1971. Cash assistance amounting to Rs. 35,779, Rs. 74,397 and Rs. 14,395 was paid to them respectively on the 3rd September, 1971, 15th January and 27th May, 1972 for exports of 87 tonnes of dehydrated onions exported during 1971-72. The total production of the firm during the calendar years 1971 and 1972 was 392 and 156 tonnes respectively. The production figures for the year 1970 were not reported by the firm to DGTD. The firm did not export dehydrated onions during 1972-73.

3.18. As regards the case of 'B', it was rejected on account of the fact that some of their samples were not approved by a London firm. However, before issue of retrospective sanction dated 19-5-1971, for cash assistance to 'A', 'B' had exported in November, 1970 and February, 1971 dehydrated onions worth Rs. 11,03,557, without any assurance about cash assistance.

3.19. Subsequently on 30-1-1972 'B' was also allowed cash assistance against export of dehydrated onions at the rate of 20 per cent of the f.o.b. value of exports with effect from 1-12-1971. This assistance was to be valid upto 31-3-1973 and to be subject to the condition that at least 80 per cent of the annual production was exported. Asked whether it was ensured that the export obligation was discharged by them, the Ministry stated: "A report in this regard has been called for. It may, however, be mentioned that a few months after the issue of orders authorising cash assistance to this party by Government letter No. 5/18/70-EP-Agri. III dated 30-1-1972 cash assistance to all such exporters was made available without reference to any specific export obligation." A letter dated 20-4-1972 of the Ministry of Commerce is reproduced at Appendix I.

3.20. The Committee desired to know the exact intention behind stipulating export of dehydrated onions worth Rs. 25 lakhs in the case of 'A' and the circumstances in which it was stipulated. The Ministry in a written reply stated: "In the case of 'A' export tar-

get of Rs. 25 lakhs was indicated at an Inter Departmental Meeting held on 24-7-1970. The relevant extracts from the Minutes of the meeting are reproduced below:

'Taking into account the total production capacity,...(A) can at best produce 800 tonnes of dehydrated onions per year. Taking into consideration the fact that onions of the required quality may not be available throughout the year and also that part of the production may have to be disposed of in the internal market, in order to offset some of the losses an export target of 450 tonnes valued at approx. Rs. 25 lakhs was considered reasonable. This export target is also acceptable to... (A). It was also recommended that the cash assistance may be made available in the first instance for one year after which the performance of this firm may be reviewed along with their cost of production etc.'

3.21. Since the production of the party was expected to be above 25 lakhs it was expected that this order of export would take place. It was not specified that cash assistance would be linked with order of export. However, the performance of this party was relevant in the context of the extension of this assistance."

3.22. When asked *inter-alia* to indicate whether 'A' and 'B' performed their export obligation to become entitled to cash assistance, the Secretary stated: "...even if there is export obligation, there should not be denial of export assistance...the points that you have now mentioned, are a little different and have to be dealt with on a different plane. I would like to cover them...I would call it facility for making import of machinery. There would be cases... that when a party has not performed its 25 per cent export obligation and the party is given facility of cash assistance and the like. My submission on this would be that, that should be given because at the time when exports are taking place, at the time when cash assistance is being given, in the first place, there is no knowledge that this is coming to an end. The point is, export obligations often run for ten years and so on and are on certain constant volumes or tapering volumes or mounting volumes. In this situation, if you have to take a view that on every shipment, we must make sure that the final thing pertaining to it must be complete, I would say that it is not called for. I feel that if we have decided as we have, that export assistance should not be denied, then, I would say that in these cases, if these two companies failed to discharge their export obligations despite assistance having been given, I do not know whether that really makes a case for denying that assistance

which was given and which did not serve the purpose of helping them to discharge the export obligation. But I am in full agreement with your last point that whatever their obligations, they have to perform them and if they have not performed them, then whatever bonds or guarantees they have signed must be called into."

3.23. The Committee pointed out that there was an assumption that the obligation in respect of 'A' would amount to Rs. 25 lakhs in the first year as against which its exports were only Rs. 4.72 lakhs; the firm had also stopped the exports after December, 1971. The Secretary stated: "There are again two aspects to this matter.... originally, the letter did say that there will be an export obligation of Rs. 25 lakhs, but within 2 or 3 months of the letter's issue it was clarified that it was not the intention that it was an export obligation. The word 'export obligation', although it did go into the original letter, has not had a special meaning. When we deal with a proposal from a party, in respect of a commodity, a view is taken as to what is the potential for export of that item. That may be for the next year or for three years from now and so on. It was in that context that the authority decided that the exports would be or could be of the order of Rs. 25 lakhs per year but it is also, if I may say so, a case of shooting high enough so that at least you attain some physical results possible."

3.24. 'A' had imported its plant from Bulgaria. Although there is rupee payment trade between India and Bulgaria imports from such a country do impose on our country an obligation to export, in turn, to that country products of equal value. In this sense imports from rupee payment countries can hardly be distinguished from imports from free foreign exchange areas. The Committee desired to know how was it right not to impose export obligation on a company which was allowed to import capital goods from a rupee payment country. The Ministry of Commerce stated: "The case relating to the import of machinery by (A) was processed by the Ministry of Industrial Development and decisions were taken by the Capital goods Committee. No export obligations as such were placed in regard to the import of capital goods. Presumably this was because the product namely dehydrated onions was essentially an item for export and practically there was hardly any market for it internally."

3.25. When asked to indicate in detail the circumstances in which the Finance Ministry first held the view that cash assistance to 'B' should not be given with retrospective effect but later on the Ministry changed their views and agreed to give cash assistance with retrospective effect, the Ministry stated: "The case of... (B) was taken with the Ministry of Finance in September, 1971, on receipt of evi-

vidence regarding acceptability of their products. In approving the grant of cash assistance to this party the Ministry of Finance felt that it was not necessary to give cash assistance with retrospective effect to..(B). The firm, however, represented once again to the Ministry of Finance on 15-2-1972 that they had been exporting dehydrated onions from 26th May, 1970, and had to incur losses. They had stated that...(A) had been given cash assistance from the date of their first shipment and therefore on grounds of equity, and for the survival of the company they prayed for grant of cash assistance with retrospective effect. The main purpose of giving cash assistance is to promote exports and to meet part of losses incurred by the exporter. In this particular case it was established that loss in export of dehydrated onions had been more than 20 per cent. Therefore it was decided by the Ministry of Finance that different treatment would not be justified. Simultaneously the cash assistance was linked with the product as in other cases and the project-wise approach was given up and they agreed that same facility should be given to...(B) as had been given to...(A)."

3.26. During evidence, while explaining the reasons for granting cash assistance with retrospective effect, the Secretary stated: "The point is, why the date was put back to 18th July, 1970. I would say that here, we have to take into account the time that Government inevitably takes in examining a proposal. We have to consult other Ministries and we have also to consult our Cost Accounts Branch. It may take six or eight months, in spite of the best will in the world. This keeps on happening. Therefore, we have, on occasions, in the interest of exports, even formally informed parties that this matter is under examination; there is no guarantee that assistance will be given; there is certainly no guarantee that the assistance will be of a certain quantum, but, in case any facility is granted, it will not be denied to them merely because their shipments have already taken place. It is in the good faith of this matter that lots of shipments take place worth crores of rupees, in anticipation and in the hope of a favourable Government decision."

3.27. "The orders of April 1972 had no bearing whatsoever on the question of retrospection, so far as...(A) are concerned. The only party that benefited on retrospection, is...(B). There was hardly any other party. There was a small shipment for a third party. The question as to what happened in April 1972 and why such an order was issued, raises the point as to why we should have a single party rate and system and why should we not have a general global rate for export. By that time, 11 firms had got industrial licences for this very item. A stage had clearly come, especially in

the matter of number of parties, when we should have had a commodity rate applicable to all parties."

3.28. The Committee desired to know whether it was a practice to give assurance of retrospective sanction to the trade and in how many cases, retrospective sanction was issued and what was the total amount of cash assistance in such cases upto the date of sanction, the Ministry of Commerce, in a written reply, stated: "It is not the normal practice to give assurance of grant of cash assistance with retrospective effect to the trade. In the case of ... (A) the unit was, because of the product manufactured by it, mainly export oriented. They had orders from foreign buyers in hand. Their samples were approved by the buyers. They had given the cost data to show that it was not economical for them to export without getting cash assistance. In order not to lose valuable foreign exchange by export of their products, it was indicated to them that in the event of cash assistance being ultimately approved the exports made by them from 18th July, 1970 on wards, would be taken into account. It was made clear to them that if the cost data furnished by them did not, on scrutiny, justify grant of cash assistance and it was not approved by Government they would not be paid anything for the exports made by them."

3.29. As per the information furnished by the Ministry of Commerce, apart from 'A' and 'B', 7 parties imported machinery for dehydration of fruits and vegetables including onions out of whom 4 have gone into production. The exports of dehydrated onions by them were only 0.17 lakh upto the end of 1972-73. Giving the reasons for these firms going slow with the implementation of their projects, the Ministry stated: "By and large the production of these plants is for export markets. Internally because fresh seasonal vegetables are available and there is preference for them, dehydrated products have very limited scope. During the last year the exports of their commodities had for reasons already mentioned become very uneconomical. It was apparently for this reason that these entrepreneurs began to go slow with the implementation of their projects. Now that the export market is showing favourable sign it is hoped that their operation will also go forward. The Director General of Technical Development is pursuing each of the parties concerned."

3.30. In reply to the question whether any export obligation was imposed on the firms which were issued capital goods import licence and if not, the reasons therefor, the Ministry of Commerce, in a written reply, stated: "It has been ascertained from the Ministry of Industrial Development who authorise import of capital goods through the Capital Goods Committee, that no export

obligation as such was imposed on any of these parties largely because production from these units would be primarily for export and not for the internal market where there is hardly any demand. In so far as . . . (B) is concerned they were on different footing as their licence was issued on 16th September, 1974 and obligation was made as a part of the industrial licence."

3.31. Asked to indicate as to what steps have been taken by the Government to increase the total export of onions to various countries the Ministry of Commerce informed the Committee that "periodical review of exports of fresh onions was made in the Ministry of Foreign Trade. Raw onions being perishable item cannot stand competition in distant markets. The main markets were Shri Lanka, Malaysia, Singapore and the Gulf countries. Some of these countries had started their own production of onions in order to become self-sufficient and to conserve their foreign exchange. Sri Lanka approximately accounted for about 50 per cent of the total export of raw onions during 1974-71. During that year the total exports of raw onions to Sri Lanka alone was of Rs. 3.15 crores out of the total export of Rs. 6.21 crores, whereas the export during April—December, 1972 is only Rs. 27,000. Similarly other countries have been reducing imports of this production from India. As a result, it was decided to lay more emphasis on export of dehydrated onions which have greater demand in European market."

3.32. As to the concrete possibilities of increasing export of dehydrated onions, the Ministry of Commerce further stated: "For reasons stated above, it was considered expedient to encourage the dehydration industry in 1970. The ruling international price of dehydrated onion at that time ranged between £370 to £400 per tonne. With a cash assistance of 20 per cent to 25 per cent it could have been possible for our industry to go in for the export of this commodity in a big way. During 1970-71 the exports were of the following order and were quite encouraging :

	Qty. (Tonnes)	Value (Rs. lakhs.)
1970-71	364.6	24.11
1971-72	364.7	25.21

3.33. During 1972-73, however, the situation deteriorated rapidly with a sudden slump in the price structure. The price during 1972-73 slumped down to £275-280 per M.T.(CIF). This fall in price was attributed to the intense competition from Egypt and East European countries. These competing countries also have the added advantage in that their solid content in their onions is reportedly higher thereby giving better yield *vis-a-vis* ourselves.

3.34. Fortunately the situation is now showing signs of some improvement and during current year the international price has started moving high. The price during September, 1973 is ruling around £420 per tonne.

3.35. While the price now quoted is higher than in 1970, the price for our own raw onions has also shot up. The industry had been claiming higher rate of cash assistance since last year because of the increase in the cost of raw material and the consequent higher production cost. But it is not possible to give cash assistance at the rate of more than 25 per cent. The other difficulty is to secure a better variety of onions with lesser water content. Discussions are being held with the industry for finding ways and means of reviving exports. Incidentally, it may be mentioned that for the export market there is demand only for the white variety of onions which is grown mainly in Nasik, whereas a number of units are located in and around Delhi and they have to get their raw material from Nasik. Efforts are being made to grow the white variety of onions in the North near the location of these processing units, but this may take some time yet."

3.36. The Committee are unable to appreciate the manner in which the grant of cash assistance for export of fresh and processed fruits and vegetables was conceived in June, 1970 and the assistance of 20 per cent sanctioned retrospectively for one unit in May, 1971 for export of dehydrated onions for the period from 18th July, 1970 to 31st March, 1972. The unit, however, exported only onions worth Rs. 4.76 lakhs upto July, 1971 as against a target of Rs. 25 lakhs accepted by it and yet the assistance was continued unabated. Significantly enough, the production during the year 1970 was not reported to the DGTD by the unit. The production during 1971 and 1972 was 548 tonnes. The unit exported only 130 tonnes upto the end of 1971-72 and there was no export thereafter. Thus a major part of the production seems to have been sold in internal market. Surprisingly, at the time of import of machinery by this unit no export obligations as such were imposed on the unit. The Committee are totally unable to accept the explanation that "presumably this was because the product namely dehydrated onions was essentially an item for export and practically there was hardly any market for it internally." This presumption is obviously wrong in view of what actually happened.

3.37. Incidentally the Committee understand from Central Food Technological Institute, Mysore that the yield of dehydrated onions will be 11 per cent on the basis that the moisture content of the finished product is less than 6 per cent. The Government, however, seems to have accepted the claim of the unit on the basis of 9 per

cent yield although the moisture content was permitted upto 8 per cent. In view of this, justification for the quantum of cash assistance should be gone into. Further, the profits made by this unit should be assessed properly from the tax angle.

3.38. The Committee further note that another unit which had an export obligation of 80 per cent of its production was also granted cash assistance of 20 per cent for its exports on 30th January, 1972 from 1st December, 1971. On the basis of the representation in February, 1972 the project-wise approach was given up and sanction was issued in April, 1972 for grant of cash assistance for all exports of dehydrated onions with effect from 18th July, 1970. During the period July, 1970 and March, 1972, this unit had exported Rs. 21.70 lakhs worth of dehydrated onions.

3.39. The Committee consider it highly improper and mala-fide to grant cash assistance retrospectively especially to a firm which had specific export obligation. It does not serve the purpose of export promotion at all. According to the Ministry of Commerce itself it is not the normal practice to give assurance of grant of cash assistance with retrospective effect to the trade.

3.40. The Committee are concerned to find that apart from the two units dealt with above as many as 7 units were allowed import of capital goods for the manufacture of dehydrated fruits and vegetables including onions. In none of these cases has an export obligation been imposed. Further, only 4 of these units have gone into production. The exports were to the extent of 0.17 lakh only upto the end of 1972-73. The Committee, therefore, wonder how all these 7 units were allowed import of capital goods by the Government and why no export obligation was imposed on them. They regret that precious foreign exchange has been allowed to be wasted without satisfying the export promotion at all.

3.41. In view of what has been brought out above, the Committee stress that the Ministry of Commerce should examine the matter carefully in consultation with the Ministry of Industrial Development the existing policies and procedures with a view to re-orienting them in a manner that would subserve national interest better. Further, the Committee find that no cash assistance is given for export of processed vegetables other than onions. It should also, therefore, be examined whether any further incentive could be given linking it to a specified quantum and value of export so that the capacity created at such a heavy cost in foreign exchange could earn adequate foreign exchange for the country. The Committee would await a detailed report regarding the steps proposed to be taken by Government.

CHAPTER IV BAMBOO PULP

Audit Paragraph

4.1. Bamboo pulp is the raw material required for production of several qualities of paper. Till 1968 our country had been importing about 60,000 tonnes of pulp annually, the foreign exchange cost thereof being approximately Rs. 9 to 10 crores. Some of the paper mills in western Indian had been facing the problem of a dependable source of the raw material and, therefore, jointly set up a company in July 1960 in Maharashtra for producing paper grade pulp from bamboo. With a loan of Rs. 506 lakhs obtained from U.S. Export-Import Bank (carrying 5.5 per cent interest) the company established a factory for this purpose in Gujarat State. The installed capacity of the unit is production of 33,000 tonnes of pulp per year. The factory started commercial production in October, 1968. During the first year upto September 1969 its production was about 16,000 tonnes. On the basis of the information furnished by the company Government allowed cash assistance of 10 per cent of the f.o.b. value on its exports of bamboo pulp during the period April 1969 to March 1970. In issuing the sanction Government had made it clear that the cash assistance was available only for exports upto 31st March, 1974.

4.2. Government issues its letters about cash assistance, not directly to the manufacturing units, but to the Export Promotion Councils which in turn inform the production units about the Government's decisions. Accordingly, Government's letter dated 31st March, 1969 about admissibility of cash assistance for export of bamboo pulp during April, 1969 to March, 1970 was addressed to the appropriate Export Promotion Council. Subsequently, that Council informed (in May 1970) this company that the aforesaid cash assistance continued for exports during April 1970 to March, 1971, although Government had not informed the Council (or the company) that the cash assistance continued during 1970-71 also. Since the Council was the competent authority, the view was taken that the company could legitimately claim that it was entitled to the benefits of the cash assistance as communicated by the Council, which was the Government's agency for furnishing such information, and that this was so despite the fact that the company might not have suffered loss by reason of the export.

4.3. In response to the company's request for increasing the rate of cash assistance, the Cost Accounts Branch of the Ministry of Finance had reported in April 1970 that :

- (1) the estimated all-inclusive cost for exports in 1970-71 and 1971-72 was likely to be more than the all-inclusive cost for domestic sales by about Rs. 178 per tonne;
- (2) the estimated average f.o.b. realisation from exports during 1970-71 and 1971-72 was likely to be less than the average realisation from indigenous sales by about Rs. 171 per tonne, and
- (3) in 1970-71 and 1971-72 the company was likely to make small profits after providing for depreciation, interest, repayment of loans etc.

The exports of the company were as follows :

Year	Tonnes
1969-70	5,277
1970-71	7,855
1971-72	1,562

4.4. The Cost Accounts Branch of the Ministry of Finance, in its report of April 1970, had assumed that exports in 1970-71 and 1971-72 would be 10,000 tonnes and 11,000 tonnes respectively. The actual exports during those two years were less, particularly in 1971-72. As a matter of fact, in that year the exports by the company were very much less than in the previous year. On account of this, the loss in exports was less than what it would have been had exports been more substantial.

4.5. The company had been representing for continued grant of cash assistance for 1970-71. The matter was considered in November 1971 when Government decided that, since this was a capital intensive industry involving substantial proportion of depreciation and interest charges which cannot be recovered from domestic sales, the 10 per cent cash assistance for exports of bamboo pulp should be continued upto 31st March 1973 and accordingly necessary sanction therefor was issued on 4th March 1972.

4.6. It would be seen from the above that, apart from other features, as in the case of cash assistance for export of dehydrated onions this sanction had also retrospective effect from the years 1970-71 and 1971-72.

4.7. Cash assistance paid to the company for its exports during April 1970 to March 1972 was Rs. 12.25 lakhs. The payment was made during July-September 1972.

(Paragraph 29 of the Report of the Comptroller and Auditor General of India for the year 1971-72. Union Government (Civil).

4.8. According to Audit paragraph the company was set up in order that bamboo pulp in adequate quantity could be supplied to indigenous paper mills because till 1968 our country had been importing about 60,000 tonnes of pulp annually and the foreign exchange cost of it was approximately Rs. 9 to 10 crores. However, a "scheme of giving cash assistance for export of bamboo pulp was introduced for the first time for the period 1st April 1969 to 31st March, 1970. The rate of cash assistance was 10 per cent of the f.o.b. value of exports. Additional cash assistance of 5 per cent of the f.o.b. value was admissible if exports exceeded 5,000 MT during 1969-70. The scheme was finalised in March 1969 and sanction was issued on 31st March 1969."

4.9. During evidence, the Committee desired to know the reason for giving cash assistance to promote exports of bamboo pulp by this company when it was established for supplying bamboo pulp to indigenous paper mills. The Secretary, Ministry of Commerce stated. "The figure which is mentioned in the Audit report is covering pulp of all types and not only the pulp that is under consideration . . . it does happen sometimes that we create capacity in relation to certain home requirements and the user's capacity does not develop in time and then, in the interim, we would like to go in for expansion. I may quote an example. When steel plants were set up the rolling capacities were not ready at that time and we exported iron in the interim."

4.10. When asked whether there was any plan to dovetail the production of this newly organised company into the plan regarding production of pulp for the whole country, a representative of the Directorate General of Technical Development stated: "Generally we encourage the establishment of integrated pulp and paper mills; i.e., the paper mills make their own pulp and convert it into paper. During 1960, a number of small paper mills were permitted to be set up in order to utilise secondary raw materials like waste paper and rags and cereal straws etc. At that time the collection of waste paper for the production of paper could not perhaps be achieved as envisaged. Thereafter the scheme for a central pulp mills was envisaged and implemented mainly to cater to the requirements for pulp of the smaller paper mills. As for their not being able to feed the small paper mills in the initial stages, I may be permitted to say that the Central Pulp Mills have adopted a flash system of driving the pulp as against the conventional system of drying pulp in the form of sheets. Therefore, there were 'knots'

and 'fish-eyes' in the pulp which could not be utilised straightaway by the small units because they had not equipment necessary for defibrising the pulp. Later on, the Central Pulp Mills Ltd., have overcome this difficulty of 'knots' in the pulp; and thereafter it could be utilised not only by the large mills but also by the smaller ones. In the initial stages, they took to exports because there was reluctance on the part of small mills who could not utilise the pulp made by this mill."

4.11. The witness further stated that "small paper mills which are mainly based on the use of waste paper had not got the necessary equipment to defibrise the pulp supplied by the Central Pulp Mills Ltd., that was the difficulty. For other countries, the difficulty was not there."

4.12. When asked to give reasons for the shortfall in pulp export by the Mills inspite of cash inducements offered by the Government, the witness stated: "As I mentioned earlier, in the initial stages they had certain technical difficulties in the quality of the pulp they produced but now they have overcome them by regulating the moisture content in the pulp and now it is more or less acceptable to our Indian mills, large as well as small. The production in the small paper mills has also increased. Earlier, the production in about 37 small paper mills was 60000 tonnes but now it has gone up to about one lakh tonnes. Therefore, they are increasing the use of the pulp from the Central Pulp Mills and perhaps there may be nothing left for export in future from this mill. Now, we are able to utilise it because the technical problems which were there in the initial stages have been solved by the Central Pulp Mills subsequently and their pulp is now acceptable to every body."

4.13. When further asked whether in 1971-72 the Central Pulp Mills supplied adequate quantity to our indigenous mills, the witness replied in the affirmative.

4.14. Giving the value of year-by-year exports of pulp made by the company the Secretary, Ministry of Commerce informed the Committee that "in 1969-70 the exports were Rs. 63.92 lakhs, in 1970-71 it was Rs. 88.21 lakhs and in 1971-72 the figure was Rs. 20.68 lakhs."

4.15. Indicating the production figures of the company the witness stated: "In the first year, namely 1969-70, the production was about 18,000 tonnes and the exports were about 6,000 tonnes. So, this conforms to your surmise or calculation of about one-third.

In the next year the production was 25,217 tonnes and the exports were a little over 7,000 tonnes and during the year after that the production upto February, 1972 for which we have figures—one month's figures are missing was 19,974 and the export upto August is 1,582 tonnes."

4.16. In reply to another question whether the Government satisfied themselves that the cash assistance for export of bamboo pulp was given for the right reasons and that it should be continued, the witness replied in the affirmative.

4.17. Drawing the attention of the representative of the Ministry to the fact that the company would be making profits on its total operations including exports as it was supplying to indigenous markets also, the Committee desired to know the principle which Government follows in giving cash subsidies. The Secretary, Ministry of Commerce stated: "As the Ministry, we are interested in more and more exports and diversified exports. We have to take such steps as give adequate inducement to that end if he is making profit in the home market, if his balance sheet is not red but blue, that is no reason why he should come to make losses abroad."

4.18. In reply to another question the witness stated that "the question before us is: by paying 10 per cent subsidy—it was 15 per cent in the first year—was it worthwhile to earn foreign exchange for the country or not? I submit it was worthwhile." The witness further stated: "I would ask if you would not agree to make a distinction between a situation which is transient and a situation which is there for all the time. In the matter of this pulp we had a temporary situation of two, three or four years in which in which there was not enough domestic demand and we would have liked to earn some foreign exchange during that stage." In reply to another query the witness stated: "There can be a transient stage in between. It has been there for a number of products, aluminium pig iron, pulp, in which there can be a temporary surplus and I think it is worthwhile to earn foreign exchange from this surplus." The witness further stated: "The approach, as I submitted earlier, is not for the totality of operations of the company in India. It is in relation to the export portion of it. We were satisfied, and we are satisfied, that there were losses for the export portion."

4.19. The witness added: "The bulk of the export effort of the country is from units and parties which are catering to the home

market and which are not obliged to export. We have to take a balance of the situation. If by export he is going to be in the red then he will not export. So, the idea is to create an inducement." He went on to say: "We have collected foreign exchange of a value of above Rs. 1.70 crores over a period of three years by paying about 10 per cent or a little more than 10 per cent as assistance."

4.20. When the Committee pointed out that from the accounts of the company it was noticed that in the first year the domestic sale was of the value of Rs. 1.32 crores whereas export amounted to only Rs. 74 lakhs, while it had been stated that the bamboo pulp had to be exported because its quality was not approved for domestic use, the representative of the DGTD state: "There is no contradiction. The small paper mills to whom the pulp is mainly meant could not make use of the pulp because they do not have the requisite equipment. But this argument does not hold good for large paper mills which are nearly 20 in number. They have the requisite equipment and they can use the pulp. Only those 37 small paper mills are not able to use this pulp."

4.21. The Committee enquired that if the factory was meant for local consumption and due to some mistake or error it could not produce the pulp of the standard needed in the country, why should Government give cash assistance for export when the idea of establishing the factory was not to export pulp. The Secretary, Ministry of Commerce explained: "It is not as though they had produced these things which were lying in the godowns and they wanted to get rid of them. It is a question of utilising the idle capacity and the additional production beyond the domestic requirement being sent out for export. For this we have to give them cash assistance. Otherwise, it is possible that they will manufacture only to the extent required by the home market."

4.22. When asked whether the temporary assistance was continuing, the Secretary, Ministry of Commerce stated that the "rate of assistance has come down to 5 per cent. In reply to another query as to the action taken to make export of bamboo pulp permanent, the witness stated that "this factory is intended for the home market. Within six months this surplus will be absorbed in the home market."

4.23. In reply to a question whether any estimate of the pulp requirement of the small paper mills had been made during the

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last eight years, a representative of the Directorate General of Technical Development state: "The small paper mills are having a total capacity of one lakh tonnes per year. By and large, they use waste paper and rags as their main raw materials. The quantity of pulp which they require as a supplementary admixture is relatively small, about 40,000 to 50,000 tonnes at the most. After 1962, many small paper mills were not established because the experience of the existing small paper mills was not happy. They were finding difficulties at every step. For instance, the price of waste paper, which is their main raw material, was going up and it was not regularly available. So, no further units were established subsequently. That is why the demand for pulp from the small paper mills remained at the level of 40,000 to 50,000 tonnes because they were already using waste paper and rags and only supplementing it with the pulp from outside. That is about the assessment of the requirement of pulp."

4.24. In reply to another query as to what prompted the Export Promotion Council to include bamboo pulp in the list of exportable commodities when it was badly needed in the country, the Secretary, Ministry of Commerce stated: "...in the matter of bamboo pulp there is a matter of specifications and by the time this factory got ready to produce a certain tonnage per year the domestic capability of using bamboo pulp of these specifications had not come about. It is not a case where exports took place by starving the home market. We do have schemes of exports by discouraging home consumption but in this case it was not; it was available as surplus over home requirements."

4.25. The Committee asked whether any attempt was made to ascertain from the sources in the country itself whether the Khadi Gram Udyog Commission and other bodies did need the bamboo pulp. The witness stated: "The approach of the Government is not that export has the last priority. If we can earn foreign exchange to the tune of Rs. 180 lakhs by spending Rs. 20 lakhs, it is worth it."

4.26. The Committee desired to know the basis on which the rate of each cash assistance given to the Central Pulp Mills was arrived at and also to furnish full particulars of the cost of production per metric tonne. The Ministry in a written reply stated: "The rate of cash assistance on exports of Bamboo Pulp was arrived at on the basis of the cost data furnished by the Central Pulp Mills supported by Chemicals and Allied Products Export Promotion Council. The firm had indicated the f.o.b. marginal cost of production as Rs. 862 per tonne and the f.o.b. realisation at Rs. 802 per tonne for Thailand

and Rs. 592 per tonne for Philippines expecting that the f.o.b. realisation would increase to Rs. 862.5 for Thailand and to Rs. 652 for Philippines. Accepting the marginal cost of production at Rs. 862 and average f.o.b. realisation of Rs. 750 per tonne, the average loss worked out to Rs. 112 per tonne or 15 per cent of the f.o.b. value. On this basis, a cash assistance of 10 per cent was agreed to. An extra 5 per cent cash assistance was also agreed to, if the exports exceed 50,000 tonnes during 1969-70.

4.27. The Committee desired to know whether any enquiry was made to ascertain the circumstances under which the concerned Export Promotion Council had informed the Central Pulp Mills without having been told by the Government that cash assistance for export of bamboo pulp would continue in 1970-71 also and if so, with what result. The Ministry of Commerce in a written reply stated: "An enquiry was held by the Vigilance officer of the Ministry of Commerce to find out the circumstances under which the Chemicals & Allied Products Export Promotion Council had informed the Central Pulp Mills Ltd., about the availability of cash assistance during the year 1970-71. From Ministry of Foreign Trade's Circular letter No. 12(3) 69-EAC dated 31-3-1970, the Export Promotion Council gained the impression that only additional cash assistance of 5 per cent on exports of bamboo pulp over 5000 MT had been discontinued during 1970-71 and that the normal cash assistance of 10 per cent continued during that year. On the basis of this impression the Council informed the company. The Enquiry Officer, however, did not find any collusion on the part of the Export Promotion Council or any of its officials with the firm. The Report of the Enquiry Officer was considered in the Ministry and it was decided to close the matter." The decision was taken with the approval of Special Secretary.

4.28. During evidence, the Secretary, Ministry of Commerce, while explaining the Law Ministry's remarks that "a small error by some individual in the Council will cost the Government a sum of Rs. 10 lakhs", stated: "If you permit me to deal with this question of what I shall call loss of Rs. 10 lakhs or additional payment of that amount having to be made, I would say that the stage of the matter when this occurred is one aspect. But there has been no payment made in this case which was not authorised or sanctioned by Government in full knowledge and consciousness. Yet there is that remark about the unfortunate mistake and so on. When the sanction was conveyed to the Council, the Council in turn notified individual constituents. There they made a mistake of notifying this as admissible, although at that point of time it was not admissible."

4.29. In reply to another question the witness stated: "I have seen of course the opinion of the Law Ministry. That was the legal position about Government's liability in the context of what the Council could do. That is true. But what has been sanctioned, has been sanctioned not because a slip occurred but because on examination it was found to be justifiable. And it has gone even much beyond the dates when these things occurred."

4.30. The Committee find that a cash assistance of 10 per cent for exports upto 5,000 tonnes and an additional assistance of 5 per cent for export exceeding 5,000 tonnes of bamboo pulp were sanctioned to a company for the year 1969-70. Evidently because this sanction was not quite clear, the concerned Export Promotion Council informed the company that the assistance of 10 per cent continued during 1970-71 also. However, by a subsequent sanction issued by Government in March, 1972 the assistance continued upto 31st March, 1973. The Committee have expressed their great dissatisfaction over the retrospective grant of cash assistance in an earlier section. The retrospective sanction issued in this case resulted in payment of Rs. 12.25 lakhs to the company. This amounts to allowing a plunder of our meagre resources.

4.31. Considering the fact that the company was specifically set up jointly by a number of paper mills to cater to domestic needs thereby avoiding imports, the grant of incentive of this kind can only be regarded as unwarranted and motivated. The explanation that the smaller paper mills could not initially use the variety of pulp produced by this company raises two questions: why was this aspect not considered at the time of granting licence to this company? and why was it not ensured that the smaller paper mills got over the technical difficulties sooner? These call for an explanation from Government in the Ministry of Industrial Development.

4.32. The grant of cash assistance with an added incentive for larger exports in this must have clearly acted as a disincentive for making the production acceptable internally and what is more it must have also necessitated continued import of the required variety of bamboo pulp at a higher cost, even by the constituents of the same company. It was in that sense counter-productive. The Committee, therefore, require that grant of cash assistance for such exports should be stopped forthwith.

4.33. Apparently there was no justification for the grant of cash assistance in this case. The Committee understand that the cash assistance of 10 per cent was granted accepting the marginal cost of

production of Rs. 862 per tonne and the average f.o.b. realisation at Rs. 750. The average realisation was worked out on the basis that the realisation would be Rs. 862.5 and 652 in respect of exports to Thailand and Philippines, respectively. Thus if all the exports had been to Thailand there would appear to be no case for cash assistance. The Committee would like to know why this was not ensured and what was the actual quantum of exports to Thailand and Philippines as well as the average realisation per tonne.

NEW DELHI;
29th April, 1974.

9th Vaisakha, VRTF (S).

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

APPENDIX I

(Vide para 3.19 of the Report)

Letter dated 20-4-1972 of the Ministry of Commerce

No. 12(14)/72-EAC

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE

New Delhi, the 20th April, 1972.

To

The Secretary,
Processed Foods Export Promotion Council,
R-15, NDSF Part II,
New Delhi.

SUBJECT:—Cash assistance against exports of dehydrated onions.

Dear Sir,

Government have had under consideration the question of grant of cash assistance against exports of dehydrated onions. It has now been decided to grant cash assistance at 20 per cent of the f.o.b. value against exports of dehydrated onions. This assistance will be admissible on all exports made on or after 18th July, 1970. Registered exporters of dehydrated onions may be advised to submit claims for the grant of cash assistance against exports of dehydrated onions made during the period from 18th July, 1970 to 31st March, 1972, to the concerned Port Licensing (Disbursing) authorities by the 30th June, 1972. Subsequent applications should be made within the unusual time limit prescribed.

2. The provision concerning frequency of applications etc. contained in the current ITC Hand Book of Rules and Procedures under the Chapter 'Registered Exporters' for the grant of import replenishment licences have been extended for the grant of cash assistance against export. Applications should be submitted to the concern-

ed port licensing (disbursing) authorities in the requisite proforma, along with all the prescribed documents, prescribed for the purpose by this Ministry.

3. Please acknowledge receipt and advise the exporters accordingly.

Yours faithfully,

Sd/-

(RAJ PAL)

Director (Export Assistance)

APPENDIX II

Summary of main Conclusions|Recommendations

Sl. No.	Para No. of Report	Ministry/Department concerned	Conclusions/Recommendations
1	2		3
1	1.69	Ministry of Commerce	<p>After examining the grant of cash assistance of Rs. 42 lakhs to a company (M/s. Jaipur Metals and Electricals Ltd., Jaipur) for the export of 3,000 tonnes of copper conductors as a special case, the Committee cannot but hold it as absolutely unjustified for the following reasons:</p> <ol style="list-style-type: none"> (i) The company had on 24th June, 1968 submitted a statement which indicated a loss of Rs. 40.83 lakhs. Subsequently when the Government Cost Accountant went into the matter the company seemed to have given different deliberately inflated data information on the basis of which a loss of Rs. 68 lakhs was made out. (This includes Rs. 14 lakhs of normal overheads which are admittedly not to be taken into account). (ii) The company had claimed that it had to reduce its original quotation in the face of severe competition from foreign

firms because of devaluation of sterling and it was prepared to substantiate it by documentary evidence. This was to be verified by the Cost Accountant. The Cost Accountant had, however, pointed out in his report of January 1969 that there was no means to verify by documentary evidence the existence of any lower foreign offer or the company being compelled to reduce its price due to such foreign competition. In this connection the Committee find that under item 3 of the Conditions of the Agency Agreement executed retrospectively from 1st January, 1967 with a firm established in the country to which the exports took place, the company's agent was required to send regular reports as to the demands, prices, the market situation and "the activity of the competition." In the absence of any such report regarding the competition, the claim of the company can only be regarded as false and motivated.

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- (iii) The company had sent its quotation on 1st September, 1967 for 2,000 tonnes of copper conductors to its agent @ 1310 dollars per tonne c.i.f. and on 2nd September, 1967, the agent firm had sent the quotation to the foreign purchasing organisation of 1250 dollars per tonne c.i.f. The agency agreement stipulated that the agent might submit quotations based on prices and conditions fixed by the company only. The Committee have been informed that the quotation dated 1st September, 1967 was submitted to the
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agent firm by one of the company's senior executives who was then in the foreign country concerned and that the subsequent reduction was given by the agent firm in consultation with the company's representative. It is not, however, clear who was the senior executive present in the foreign country at that time. (It could be presumed that he is one of those connected with the agent firms). On further negotiations the rate was reduced as ranging from 1237.50 dollars to 1241.50 dollars. The justification for the successive reductions does not appear to have been gone into by Government.

- (iv) The rates quoted by the firm were based on the price of £ 350 per ton of copper bars in the London Metal Exchange and the final contract price was to be adjusted according to copper price variation clause. However, by a separate agreement dated 28th May, 1968, the parties had amended the original contract changing the base price of copper in London Metal Exchange from £ 350 to £ 408, 56, d8. This accounted for a loss realisation of Rs. 31.5 lakhs. The company had explained that this had to be done in order to increase the scope of the contract from 2,000 tonnes to 3,000 tonnes. However, there have been no pressure from the foreign buyer to change the

basis and on the contrary it is seen from the letter of intent of the foreign organisation dated 31st January, 1968 sent to the agent of the company that they have agreed to the basic copper price of £ 350 even in regard to one additional supply of 1,000 tonnes. In any case there was no justification to change the basis, as the price for the initial 2,000 tonnes was quoted before the devaluation of £ sterling in November, 1967.

- (v) The Committee understand that the levels of cash compensatory support are fixed by the Government on the marginal costing criterion without taking into account certain elements such as commission to agents. However, in this case the cost is computed taking into account the agency commission of Rs. 17.19 lakhs. According to the Cost Accountant there is no evidence of the foreign firm working as an agent of the company, in the correspondence exchanged between them.
- (vi) The Committee find discrepancy in the specification and quantity of the copper conductors to be exported and the conductors actually produced for exports during the years 1968-69 and 1969-70.
- (vii) The Cost Accountant had suggested that since most of the costs detailed in his report were estimates and since the major portion of the cost was still then to be incurred, the company might be asked to submit details of the actual expenses duly certified by its auditors after completion of

the order. Strangely, the company is stated to have expressed its inability to segregate expenses relating to the particular contract. This was obviously done to prevent exposure.

The Committee also note with serious concern that the whole deal is full of malpractices, concoction and fraud and on this basis penal action should be initiated immediately under advice to them. It should be explained why this has not been done so far. It is seen from the contract executed between the foreign purchasing organisation and the Indian company that the same person represented the company as well as its agent. The copy of the contract does not even indicate the date on which it was executed although it is stated to have been executed on 21st January, 1968. Although the agent seems to have signed the contract on behalf of the Indian company, the agency agreement itself is stated to have been executed on 22nd February, 1968, a month after the purchase contract was signed. A copy of the so-called agency agreement furnished to the Committee does not indicate the date on which it was executed nor does it indicate the persons who signed the agreement on behalf of the company and its agent. It is also seen from the latter dated 20th January, 1969 from another foreign firm to the Indian company that the former were to be the agent and that because the other firm had signed the contract with the foreign organisation on behalf of the Indian

company, the agency agreement had to be executed with it. Further, the permission of the Reserve Bank for entering into the agency agreement had been given only in April 1969 and, therefore, it is certain the agency agreement could not have been executed before that date.

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The two foreign firms had two Indian citizens as partners each and one of the partners was common to both. The other partner in the firm which acted as an agent of the Indian company subsequently became a director of the latter w.e.f. 25th June, 1968 and he had participated in the discussion with the Government in connection with the grant of cash assistance. Surprisingly, in his income-tax returns he had not indicated his association with the foreign firm nor had he returned any income from the foreign firm. As there appears to be a clear case of fraud and evasion of tax, the matter requires a thorough probe and immediate action under advice to the Committee. If involvement of any officials is found that too should be taken care of.

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In view of all that is detailed above, the Committee strongly feel that the Indian company and the two foreign firms were of same origin, ownership and control and that there had been extreme manipulation/misrepresentation to make unlawful gains. They accordingly desire that the case should be handed over to the CBI and Foreign Exchange Enforcement Directorate immediately for a detailed probe with the instructions that it should be done expeditiously

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Mini. of Commerce

with a view to launching prosecution against the offenders including Government officials who were responsible to take care to country's interests. The Committee would await a report in this regard within three months.

It is also clear that the proposals of the company and the various claims made and documents produced by it have not at all been carefully scrutinised by the various authorities of Government obviously to give advantage to the offender. The Committee, therefore, desires that because it is a serious economic offence on the basis of CBI and Foreign Exchange Enforcement Directorate investigations, severe and exemplary action should be taken against the officers for their lapses under advice to them.

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Silver essentially serves as a second line of free foreign exchange reserve for our country and its export is wholly against national interest. A firm in Madras (M/s. Dadha Drugs and Pharmaceuticals Pvt. Ltd.) had been exporting silver nitrate. Silver nitrate is a silver salt with 63.5 per cent silver content. Metallic silver can be easily recovered from silver nitrate. An amendment to the Export Control Order, 1968 was proposed by the Chief Controller of Imports and Exports to ban export of "manufactures and products wholly or mainly of silver including chemicals." The amendment was, however, carried out by the Ministry of Commerce w.e.f. 26th January, 1969 in consultation with the Industrial Adviser to read as "manu-

factures and products wholly or mainly of silver and silver salts with more than 50 per cent silver content" leaving a loophole in the law which could be exploited by unscrupulous exporters of silver. This prohibited export of only silver nitrate which is a silver salt. Immediately thereafter, between the period February to June, 1969, the Madras firm exported Rs. 52.51 lakhs worth of silver oxide to an East European country. The silver metal content of silver oxide is 93.1 per cent and is very easily recoverable. To plug the loophole in the Export Control Order, 1968, it had to be further amended on 23rd July, 1969 to prohibit also export of silver chemicals and compounds with more than 50 per cent silver content. The Committee are very much concerned that a loophole was kept while initially amending the Export Control Order which was successfully exploited Internationally by the firm to move silver out of the country in the guise of silver oxide. They desire that responsibility should be fixed for this lack of care in drafting the amendment and action taken under advice to them.

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It is surprising that the firm had claimed and obtained cash assistance to the extent of Rs. 10.50 lakhs and import replenishment licence for another sum of Rs. 10.50 lakhs on the ground that the silver oxide exported was a drug. This claim was accepted on the basis of the legal opinion given by the Solicitor General. However, on going through the facts of the case as analysed by an Officer on Special Duty in the Office of the Chief Controller of Imports and Exports, it appears that the silver oxide was actually exported as :

chemical and hence it was not entitled to any export incentive. The Committee would, therefore, like to know how the cash assistance and the import replenishment licence were allowed in this case apparently without fully going into the fact of the case.

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Min. of Commerce

It appears that the firm had indulged in serious malpractices under the very nose of the Government as indicated below:

- (i) It seems that the foreign buyer required the product to be packed in polyethylene jars; although according to BPC 1934 specification, silver oxide for being used as a medicine was required to be stored in "amber-tinted bottles".
- (ii) The original specification given in the purchase order as "BP & Merck Index 7th ed." applicable to chemical seems to have been substituted by "BPC 34" without being attested by the foreign buyer.
- (iii) The export Control Order was initially amended on 22nd January, 1969. Within a month and 4 days thereafter the firm finalised the deal to export 14,000 Kgs. of silver oxide valued at Rs. 58.45 lakhs with the foreign firm. Within another month they obtained the necessary licence from the State Drugs Controller and formal orders from the

foreign firm and received from the bankers of the exporter advice that letter of credit had been opened. Further, 4 consignments were exported between the period 24th March, 1969 to 31st March, 1969.

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Thus in the words of Officer on Special Duty "the whole thing was so neatly planned, conspired and executed to defraud the Government and the party succeeded in exporting huge quantities of silver in the shape of silver oxide in a few months." There seems to have been a multiple collusion with the foreign buyer. The Committee understand that years ago silver oxide was being used as a drug for treatment of hysteria but is no longer used so. The utility of such a huge quantity (roughly 11 crore doses) as drug imported into a small country within such a short period from a firm which did not export it earlier, is seriously in doubt. Further, it appears that the exports were under-valued. The Committee fail to understand how unless some officials were involved it would have been possible for the exporters to complete their job so successfully. The Committee would, therefore, very much require that the matters should be immediately handed over to the CBI and Enforcement Branch for a probe. Persons found guilty of such a heinous economic offence should get exemplary punishment.

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Arising out of this case is the basic question how import replenishment could be allowed for an item of export which does not have any import content. It is obvious that such items should be altogether excluded from the purview of the import replenishment

scheme. Surprisingly, in this case the firm made over the import replenishment licence for import of lactose to foreign pharmaceutical firms operating in India. The Committee fail to understand how import of lactose could have helped expansion of production and the exports of the firms concerned. This calls for an immediate explanation. The Committee desire that the Ministry of Commerce should carefully go into these points so as to take steps to ensure that export incentive is not abused in any manner. Economic offence should be curbed ruthlessly and none should be spared.

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Ministry of Commerce

The Committee are unable to appreciate the manner in which the grant of cash assistance for export of fresh and processed fruits and vegetables was conceived in June, 1970 and the assistance of 20 per cent sanctioned retrospectively for one unit in May, 1971 for export of dehydrated onions for the period from 18-7-1970 to 31-3-1972. The unit, however, exported only onions worth Rs. 4.78 lakhs upto July 1971 as against a target of Rs. 25 lakhs accepted by it and yet the assistance was continued unabated. Significantly enough, the production during the year 1970 was not reported to the DGTD by the unit. The production during 1971 and 1972 was 548 tonnes. The unit exported only 130 tonnes upto the end of 1971-72 and there was no export thereafter. Thus a major part of the production seems to have been sold in internal market. Surprisingly, at the time of import of machinery by this unit no export obligations as such were imposed on the unit. The Committee are totally un-

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able to accept the explanation that "presumably this was because the product namely dehydrated onions was essentially an item for export and practically there was hardly any market for it internally." This presumption is obviously wrong in view of what actually happened.

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Incidentally the Committee understand from Central Food Technological Institute, Mysore that the yield of dehydrated onions will be 11 per cent on the basis that the moisture content of the finished product is less than 6 per cent. The Government, however, seems to have accepted the claim of the unit on the basis of 9 per cent yield although the moisture content was permitted upto 8 per cent. In view of this, justification for the quantum of cash assistance should be gone into. Further, the profits made by this unit should be assessed properly from tax angle. 77

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The Committee further note that another unit which had an export obligation of 80 per cent of its production was also granted cash assistance of 20 per cent for its exports on 30-1-1972 from 1-12-1971. On the basis of the representation in February, 1972 the project-wise approach was given up and sanction was issued in April, 1972 for grant of cash assistance for all exports of dehydrated onions w.e.f. 18-7-1970. During the period July 1970 and March 1972, this unit had exported Rs. 21.70 lakhs worth of dehydrated onions.

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The Committee consider it highly improper and *mala-fide* to

grant cash assistance retrospectively especially to a firm which had specific export obligation. It does not serve the purpose of export promotion at all. According to the Ministry of Commerce itself it is not the normal practice to give assurance of grant of cash assistance with retrospective effect to the trade.

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Ministry of Commerce

The Committee are concerned to find that apart from the two units dealt with above as many as 7 units were allowed import of capital goods for the manufacture of dehydrated fruits and vegetables including onions. In none of these cases has an export obligation been imposed. Further, only 4 of these units have gone into production. The exports were to the extent of 0.17 lakh only upto the end of 1972-73. The Committee, therefore, wonder how all these 7 units were allowed import of capital goods by the Government and why no export obligation was imposed on them. They regret that precious foreign exchange has been allowed to be wasted without satisfying the export promotion at all.

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In view of what has been brought out above, the Committee stress that the Ministry of Commerce should examine the matter carefully in consultation with the Ministry of Industrial Development the existing policies and procedures with a view to re-orienting them in a manner that would subserve national interest better. Further, the Committee find that no cash assistance is given for

export of processed vegetables other than onions. It should also, therefore, be examined whether any further incentive could be given linking it to a specified quantum and value of export so that the capacity created at such a heavy cost in foreign exchange could earn adequate foreign exchange for the country. The Committee would await a detailed report regarding the steps proposed to be taken by Government.

16 4 30

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The Committee find that a cash assistance of 10 per cent for exports upto 5,000 tonnes and an additional assistance of 5 per cent for exports exceeding 5,000 tonnes of bamboo pulp were sanctioned to a company for the year 1969-70. Evidently because this sanction was not quite clear, the concerned Export Promotion Council informed the company that the assistance of 10 per cent continued during 1970-71 also. However, by a subsequent sanction issued by Government in March, 1972 the assistance continued upto 31st March, 1973. The Committee have expressed their great dissatisfaction over the retrospective grant of cash assistance in an earlier section. The retrospective sanction issued in this case resulted in payment of Rs. 12.25 lakhs to the company. This amounts to allowing a plunder of our meagre resources.

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Considering the fact that the company was specifically set up jointly by a number of paper mills to cater to domestic needs thereby by avoiding imports, the grant of incentive of this kind can only be regarded as unwarranted and motivated. The explanation that the smaller paper mills could not initially use the variety of pulp

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produced by this company raises two questions: why was this aspect not considered at the time of granting licence to this company? and why was it not ensured that the smaller paper mills got over the technical difficulties sooner? These call for an explanation from Government in the Ministry of Industrial Development.

18 4 32

Mini. of Commerce

The grant of cash assistance with an added incentive for larger exports in this case must have clearly acted as a disincentive for making the production acceptable internally and what is more it must have also necessitated continued import of the required variety of bamboo pulp at a higher cost, even by the constituents of the same company. It was in that sense counter-productive. The Committee, therefore, require that grant of cash assistance for such exports should be stopped forthwith.

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19 4 33

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Apparently there was no justification for the grant of cash assistance in this case. The Committee understand that the cash assistance of 10 per cent was granted accepting the marginal cost of production of Rs. 862 per tonne and the average f.o.b. realisation at Rs. 750. The average realisation was worked out on the basis that the realisation would be Rs. 862.5 and Rs. 652 in respect of exports to Thailand and Philippines, respectively. Thus if all the exports had been to Thailand there would appear to be no case for cash

assistance. The Committee would like to know why this was not ensured and what was the actual quantum of exports to Thailand and Philippines as well as the average realisation per tonne.
