

THIRTY-SIXTH REPORT
STANDING COMMITTEE ON
PETROLEUM & CHEMICALS
(2002)

(THIRTEENTH LOK SABHA)

DISINVESTMENT IN PETROLEUM
AND PETROCHEMICALS SECTOR

MINISTRY OF PETROLEUM & NATURAL GAS
AND
MINISTRY OF CHEMICALS & FERTILISERS
(DEPARTMENT OF CHEMICALS & PETROCHEMICALS)

*[Action Taken by the Government on the recommendations contained
in the Twenty-Eighth Report (Thirteenth Lok Sabha) of the
Standing Committee on Petroleum and Chemicals (2002) on
Disinvestment in Petroleum and Petrochemicals Sector]*

Presented to Lok Sabha on 20.12.2002

Laid in Rajya Sabha on 20.12.2002



LOK SABHA SECRETARIAT
NEW DELHI

December, 2002/Agrahayana, 1924 (Saka)

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE (2002)	(iii)
INTRODUCTION	(v)
CHAPTER I Report	
CHAPTER II Recommendations which have been accepted by the Government	19
CHAPTER III Recommendations which the Committee do not desire to pursue in view of the Government's replies	22
CHAPTER IV Recommendations in respect of which replies of the Government have not been accepted by the Committee	24
CHAPTER V . Recommendations in respect of which final replies of the Government are still awaited	40

APPENDICES

I. Minutes of the Thirteenth sitting of the Standing Committee on Petroleum & Chemicals (2002) held on 19th December, 2002	41
II. Analysis of Action Taken by Government on the recommendations contained in the Twenty-Eighth Report (13th Lok Sabha) of the Standing Committee on Petroleum & Chemicals (2002) on 'Disinvestment in Petroleum and Petrochemicals Sector'	43

COMPOSITION OF THE STANDING COMMITTEE ON
PETROLEUM AND CHEMICALS (2002)

Shri Mulayam Singh Yadav—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ashok Argal
3. Dr. Chellamella Suguna Kumari
4. Shri Ram Chander Bainsa
5. Shri Ananda Mohan Biswas
6. Shri Padam Sen Choudhry
7. Prof. Kailasho Devi
8. Shri P.D. Elangovan
9. Shri Dilipkumar Mansukhlal Gandhi
10. Smt. Sheela Gautam
11. Shri Paban Singh Ghatowar
12. Shri Bijoy Handique
13. Shri Shriprakash Jaiswal
14. Shri C. Kuppusami
15. Shri Jagannath Mallick
16. Shri Punnulal Mohale
17. Shri P. Mohan
18. Shri Ashok N. Mohol
19. Dr. Debendra Pradhan
20. Shri Ram Sajivan
21. Shri Mohan Rawale
22. Shri Shyama Charan Shukla
23. Dr. V. Saroja
24. Dr. Chhatrapal Singh
25. Shri Prabhunath Singh
26. Shri Ramjiwan Singh
27. Dr. Ram Lakhan Singh
28. Shri Shankersinh Vaghela
29. Shri Ratilal Kalidas Varma
30. Dr. Girija Vyas

Rajya Sabha

31. Shri Balkavi Bairagi
- ***32. Shri Ram Nath Kovind
33. Shri Anil Kumar
- ***34. Vacant
35. Shri Rajiv Ranjan Singh 'Lalan'
36. Shri Mool Chand Meena
37. Shri Dipankar Mukherjee
- **38. Shri Pritish Nandy
39. Shri Ahmed Patel
- ***40. Shri Keshubhai Savdasbhai Patel
41. Shri Yadlapati Venkat Rao
42. Ms. Mabel Rebello
43. Shri Gaya Singh
- *44. Shri Thanga Tamilselvan
45. Prof. Ram Gopal Yadav

SECRETARIAT

- | | |
|-----------------------|-----------------------------------|
| 1. Shri P.D.T. Achary | <i>Additional Secretary</i> |
| 2. Shri K.V. Rao | <i>Joint Secretary</i> |
| 3. Shri P.K. Grover | <i>Director</i> |
| 4. Shri R.K. Saxena | <i>Under Secretary</i> |
| 5. Smt. Madhu Bhutani | <i>Senior Executive Assistant</i> |

* Nominated w.e.f. 8th April, 2002.

** Nominated w.e.f. 8th May, 2002.

*** Nominated w.e.f. 14th May, 2002.

**** Vacancy caused consequent upon retirement of Shri Shyam Lal, MP (RS) from the membership of Rajya Sabha w.e.f. 21.11.2002.

INTRODUCTION

I, the Chairman, Standing Committee on Petroleum & Chemicals (2002) having been authorised by the Committee to submit the Report on their behalf present this Thirty-Sixth Report on Action Taken by Government on the recommendations contained in Twenty-Eighth Report (Thirteenth Lok Sabha) of the Standing Committee on Petroleum & Chemicals (2002) on 'Disinvestment in Petroleum and Petrochemicals Sector'.

2. The Twenty-Eighth Report of the Committee was presented to Lok Sabha on 17th May, 2002. The Replies of Government to all the recommendations contained in the Twenty-Eighth Report were received on 18th November, 2002. The Standing Committee on Petroleum & Chemicals (2002) considered and adopted this Report at their sitting held on 19th December, 2002.

3. An analysis of the Action Taken by Government on the recommendations contained in the Twenty-Eighth Report (Thirteenth Lok Sabha) of the Committee is given in Appendix-II.

4. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

5. The Committee place on record their appreciation for the valuable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

NEW DELHI;
20 December, 2002
29 Agrahayana, 1924 (Saka)

MULAYAM SINGH YADAV,
Chairman,
Standing Committee on
Petroleum & Chemicals.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by the Government on the recommendations contained in the Twenty-Eighth Report (Thirteenth Lok Sabha) of the Standing Committee on Petroleum & Chemicals on 'Disinvestment in Petroleum and Petrochemicals Sector' which was presented to Lok Sabha on 17th May, 2002.

2. Action Taken notes have been received from the Government in respect of all the 21 recommendations contained in the Report. These have been categorised as follows:—

- (i) Recommendations/observations that have been accepted by the Government:—

Sl. Nos. 18 and 21.

- (ii) Recommendations/observations which the Committee do not desire to pursue in view of the Government replies:—

Sl. Nos. 5 and 16.

- (iii) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee:—

Sl. Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 19 and 20.

- (iv) Recommendations/observations in respect of which final replies of the Government are still awaited:—

Sl. Nos. Nil

3. The Committee desire that the replies in respect of the recommendations which have been commented upon by the Committee in Chapter-I should be furnished expeditiously.

Objectives of Disinvestment

(A) RAISING OF INFRASTRUCTURE

Recommendation (Sl. No. 1, Para No. 3)

4. The Committee while commenting upon the objectives of disinvestment in HPCL and BPCL had stated that these Oil Companies have set up a vast network of marketing infrastructure such as port facilities, terminals, depots, LPG bottling plants, product pipelines, etc. etc. The Committee had, therefore, opined that raising of this infrastructure is also an investment which ultimately helps the common man in the society. The Committee had, therefore, recommended that since these companies who are engaged in raising infrastructure, there was no need to disinvest these Oil Companies.

5. The Government while replying to these observations stated as under:-

“The Committee’s contention that BPCL and HPCL have already set up a vast network of marketing infrastructure such as port facilities, terminals, depots, product pipelines etc. which are in the nature of raising infrastructure and thereby fulfilled the objective of disinvestment is not acceptable. The Government can through disinvestment in HPCL/BPCL raise resources which could be utilised in the social sector as well as raising fresh infrastructure. Further, as already mentioned raising resource is not the only objective of disinvestment. In order to realise the other objectives of disinvestment mentioned above, it is essential that BPCL/HPCL are disinvested. In view of the above, recommendation of the Committee cannot be accepted.”

6. The contention of the Government that the Committee’s views on raising of infrastructure by these Oil Companies ‘are not acceptable’ to the Government are highly objectionable. The Committee have the right to hold their views and stating that these are not acceptable to the Government would amount to negation of very status of the Parliamentary Committees. The Committee hold their view that BPCL and HPCL have already set up a vast network of infrastructure. These companies have set up marketing infrastructure on common sharing basis. Combined together they own 51% of terminals and depots of LPG Bottling plants, 50% Retail

Outlets and 47% of LPG Distributorships. In Mumbai, Pune, Vizag and Secunderabad areas, HPCL owns infrastructure holding petrol, diesel and kerosene of 13.6 MMT of which only about 4 MMT is required by HPCL. The remaining capacity is used by IOC and BPCL. Similarly in Mumbai, Manmad and KG Karur areas, BPCL owns infrastructure of 9.7 MMT of which 80% is used by IOC and HPCL. The Committee would like to drive home the point that this kind of infrastructure is being used by Oil Companies on common sharing basis and disinvestment of HPCL or BPCL would jeopardise the successful functioning of common sharing basis which would ultimately be injurious to objectives of putting up infrastructure. The Government, therefore, by disinvesting HPCL and BPCL is not taking care of the infrastructure but indirectly hitting the maintenance of these and further discouraging the raising of new infrastructure. The Committee, therefore, again emphasise that BPCL and HPCL both are engaged in raising the infrastructure and, already fulfilling the objectives of disinvestment. They, therefore, reiterate their earlier recommendation that BPCL and HPCL should not be disinvested.

(B) EMPLOYMENT OPPORTUNITIES

Recommendation (Sl. No. 2, Para No. 4)

7. Another objective of disinvestment was quoted as releasing manpower currently locked up in managing the PSEs and their re-deployment in high priority social sectors that were short of such resources. The Committee had stated that as per the experience the chances of achievement of this objective were remote and, therefore, had desired that in case of disinvestment in any industry the Government should ensure rehabilitation of such of the staff which was declared surplus.

8. Government while replying to these observations has stated as under:-

"As explained earlier the Government provides adequate safeguards for the employees in disinvestment cases and even in the case of rationalization, compensation package is built in. It is incorrect to say that the past experience of disinvestment in Modern Food and BALCO is not a happy one. In both the cases employee benefits have improved. There is also no evidence to show that in the name of rationalization of manpower, the staff of these companies

was coerced to opt for VRS. Moreover, post-disinvestment, the protection provided to labour under the appropriate labour and industrial laws would in any case be operative. Government has always and would in future endeavour to provide an environment and opportunities for higher and higher levels of employment by pursuing appropriate economic policies."

9. The Committee feel that the Government have treated the observations of this Committee casually. The Committee wish that the Government had assessed the ground realities. As per information given in the Rajya Sabha on 4th December, 2002 public sector employment had gone down from 2.3 million to 1.7 million during 1991-2000. Rate of growth of employment in the organised sector is declining. Therefore, bland statements about Government's endeavour to provide employment opportunities does not serve the purpose. The Government's contention that disinvestment in Modern Food and BALCO has enhanced the employees' prospects in the disinvested era needs an assessment by independent agencies. The Committee feel that there is a need to appoint an experts committee comprising of representatives of the labour unions, Government and the social scientists to assess the impact of disinvestment on the employees. The Committee, therefore, reiterate their earlier recommendation.

(C) EARNINGS FROM DISINVESTMENT

Recommendation (Sl. No. 3, Para No. 5)

10. In support of their decision to disinvest HPCL and BPCL, the Government had stated that average dividend received by Government from these Companies during the last 5 years has been Rs. 108.70 crore per annum and Rs. 95.90 crore per annum respectively. The Committee had, however, observed that payment of dividend should not be the only basis for deciding whether the Company should be disinvested or not. These Companies have contributed to national exchequer by way of customs, sales tax, etc. etc. The Committee had further observed that these Oil Companies had got their amount locked up in Oil Pool Account for years and now the Government instead of releasing their dues have issued Oil Bonds which fetch less than 7% interest whereas the Government themselves expect 10% interest. The Committee had emphasised that Government should take into account the basic factor that without seeking budgetary support from the

Government, these Companies have raised the assets which are in real sense the national assets. The Committee had, therefore, recommended that Government should take into account these factors while calculating the real value of the dividend.

11. The Government while replying to these observations have replied as under:-

"The dividend figures of Rs. 108.70 crore and Rs. 95.90 crore are the dividend payment to Government on its shareholding. The total dividend payment (including other shareholders) is higher.

As already pointed out, the objective of disinvestment is not only to unlock the resources for better deployment but also other objectives like reducing public debt, transfer of commercial risk on taxpayers money to the private sector, bring market discipline and greater efficiency to the disinvested PSUs and end of public sector monopoly and thereby bring relief to the consumers. The contribution made by these companies by way of custom duty, sales tax, etc. is irrelevant as whether these PSUs are in public sector or in private sector, they would have to pay custom duty, sales tax, etc. These companies have raised the assets by ploughing back the huge profits they were able to make due to their monopolistic position as well as due to their being operated under Administered Price Mechanism. The moot point here is whether the unlocking of the resources by Government from these companies would be more beneficial to Government at this point of time or to retain the resources lying in these companies. The answer is definitely that unlocking would be very beneficial as had been proved in Government's earlier reply that dividend received from these companies would be paltry as compared to a 10% interest on the expected realisation from the disinvestment of these two PSUs."

12. The Committee regret to observe that the Government have not replied to the observations of the Committee in toto. The objective of the disinvestment which seeks to unlock the resources for better deployment such as reducing public debt, transfer of commercial risk, etc. etc., is definitely laudable. But the Committee are of the strong opinion that there should be rationality in pursuing these objectives as these Oil Companies have already contributed in a huge way to the national exchequer through disinvestment or

through other means. Oil Sector has already contributed the largest share to the national exchequer through disinvestment. The total receipts from disinvestments of PSUs between 1991-2000 was to the tune of Rs. 26148 crore. Out of this about 49% *i.e.* Rs. 12867 crore were realised from oil sector. During 1998-2000 only the oil sector contributed Rs. 7217 crore as against the total Rs. 9070 which amounts to 80% of the total receipts from disinvestment. Thus the oil sector has already contributed substantially to the national exchequer and has fulfilled the objectives of the disinvestment so far as unlocking of the resources of these Oil Companies are concerned. The Committee would again like to draw attention of the Government to the fact that these Oil Companies have increased their working capital without any budgetary support. During 1974 to 1976 when BPCL and HPCL came into being to be national companies, the Government have invested less than Rs. 43 crore as equity (BPCL - Rs. 27.75 crore, HPCL - Rs. 15.20 crore). Today the combined paid up capital of HPCL and BPCL is 15 times more than the original equity amount which is around Rs. 650 crore. And this asset has been created without any investment from the Government. It is further to be noted that the replacement cost on assets of these companies is between Rs. 20000 to 25000 crore each.

13. The Committee do not agree with the contention of the Government that these companies have raised these assets by ploughing back the huge profits they were able to make due to their monopolistic position as well as due to their being operated under Administered Pricing Mechanism. These companies functioned under a system provided by the Government wherein they had total control over the pricing mechanism and the Committee believe that the Government did not allow these companies to earn profits at the cost of consumers interest during all these years.

14. In their reply, Government have raised another point *viz.* whether unlocking of the resources by the Government from these companies would be more beneficial to the Government at this point of time or to retain the resources lying in these companies. The Committee's firm conclusion is that the Company should be allowed to retain these resources and the Government should not go in for disinvestment of these companies.

15. It should be remembered that these companies were nationalised as per the Parliament Act which vested that ownership of the assets of erstwhile private companies in the hands of Central

Government or Government companies as has already been discussed in Parliament. The Committee are of the opinion that for disinvesting these companies formal permission of Parliament in the form of a Parliamentary Act is necessary. Although, the Government have been insisting upon that there was consensus on disinvestment in PSUs but the Government has never come before the Parliament in the form of an explicit policy document on the subject. The Committee feel that disposal of assets of any PSU without any rationality is not at the core of economic reforms. They, therefore, are of the opinion that the executive decision or a budget speech made in the Parliament is different from a Parliamentary Act. Therefore, the Government should act lawfully to undo what the Parliamentary Acts have already done in acquisition and nationalisation of these companies.

D) INDIAN OIL CORPORATION TO BE MAINTAINED AS FLAGSHIP COMPANY

Recommendation (Sl. No. 4, Para No. 6)

16. The Committee had welcomed the decision of the Government not to privatise Indian Oil Corporation Limited Company and, therefore, had recommended that the Government should come out with a categorical policy statement that Indian Oil Corporation shall not be privatised during the next 15 to 20 years.

17. The Government responded to this observation as under:-

“It may not be possible for Government to formulate a policy in respect of disinvestment of a particular PSU for next 15-20 years. In the era of globalisation, no policy can be static and it requires constant review based on the internal as well as external economic environment prevailing. It is precisely for this reason that the Government has taken a decision not to privatise IOC for the time being. IOC being a Navratna company has been allowed to operate as per the well laid down Government policy and the policy of disinvestment with regard to IOC would in no way affect the performance of IOC or its perspective planning.”

18. The Committee are not convinced with the reply of the Government. The Committee feel that corporate visions are not formulated for couple of years but at least for 15 to 20 years. There should not be any sort of short sightedness of vision in corporate governance. The Committee reiterate their earlier recommendation

that the Government should state categorically on the floor of the House that IOC will not be privatised during the next 15 to 20 years.

(E) ECONOMIC VIABILITY OF REFINERIES LOCATED IN NORTH-EASTERN REGION

Recommendation (Sl. No. 6, Para No. 8)

19. The Committee had shown their special concern for the Refineries located in the North-Eastern region of the country. The Committee had taken a special note of the approach of the Government that in case of privatisation and in the free market regime refineries in the country would adjust their crude processing level, depending on domestic demand and export possibilities. The Committee had expressed their apprehensions that in case of privatisation these refineries would have to procure their crude supply either from import or transport from coastal regions resulting in increase in their input cost which would make them further vulnerable from economics point of view. The Committee had therefore, recommended that the Government should first consider special package for the refineries in the North-East before initiating privatisation.

20. Government responded to this recommendation as under:-

"As of now, the North-East refineries enjoy 50% excise duty concession on their products. The Ministry of Petroleum and Natural Gas has taken up with the Ministry of Finance the issue of restoration of 100% excise duty concession to Namuligarh Refinery Limited (NRL), which was available to this refinery before 1.3.2002. As far as the issue of crude availability *vis-a-vis* the refining capacity of North East refineries is concerned, it may be mentioned that the indigenous crude availability in Assam is around 5 million metric tonnes per annum (MMTPA) against the total refining capacity of 7 MMTPA of these refineries. Considering the locational aspect as also the demand of petroleum products in the North East region, it turns out that the best feasible option is to operate the North East refineries at around 5 MMTPA *i.e.* indigenous crude available in Assam.

In addition to above, the Government is examining other issues with a view to ensure economic viability of North East Refineries in the deregulated scenario."

21. The refineries located in the North-Eastern region have a special significance as they are not only engaged in refining the crude oil but also catering to the employment needs of the people of this region. All these refineries are of small capacities which in today's situation are likely to be unviable when compared to the new refineries coming up in the country. The Committee feel that to maintain their economic viability there should be full capacity utilisation of these refineries. The Committee, therefore, reiterate their recommendation that the Government should first consider a special package for these refineries before initiating privatisation.

(F) IMPLEMENTATION OF THE PENDING REFINING PROJECTS

Recommendation (Sl. No. 7, Para No. 9)

22. The Committee while examining the refining capacity in the country had noted that BPCL and HPCL both are in the process of establishing grass root refineries at Bina, Allahabad and Bhatinda and have invested huge amounts in pre-project activities. The Committee had expressed their concern that the Government was not serious about examining the relevant issues relating to the feasibility for completion of these refineries while deciding upon the disinvestment of Oil Companies. The Committee, had, therefore recommended that before taking any final decision the Government should ensure that all ongoing projects including those which have been conceptualised such as Bhatinda Refinery in Punjab, Bina Refinery in Madhya Pradesh and Allahabad Refinery in Uttar Pradesh would be implemented in toto and it would be legally binding for the acquiring company to execute them.

23. The Government reply to these observations is as under:-

"Refining sector is delicensed and, as such, it is not possible to correctly assess the plans of refining capacity additions in future. The projection to total refining capacity materialisation during the Tenth Plan would depend upon several factors including domestic demand, duty structure that would affect import and export possibilities and refining margins.

At the annual compound growth rate (ACGR) of 5.7% the projected demand of petroleum products in the terminal year of the Tenth Plan would be 134.6 million metric tonnes per annum (MMTPA). This would require domestic refining capacity of

145 MMTPA. However, if the ACGR is 3.6%, the demand in the terminal year of the Tenth Plan would be around 120 MMTPA and the requirement of refining capacity around 130 MMTPA.

As to the actual materialisation of the refining capacity, based on the present indications, the following two scenarios are likely to emerge:

Scenario-I. Keeping in view the competitive environment in the deregulated scenario, current low refining margins, the slow down of the product demand and the fact that the companies would need to make substantial investments in quality upgradation projects, only refinery expansion projects under implementation may fructify during the Tenth Plan if the product demand growth remains at the base case of 3.6%. Under this scenario, the refining capacity is expected to increase to around 138 MMTPA.

Scenario-II. If the product demand grows at a higher rate of 5.7%, then in addition to the capacity expansion projects under implementation, one or two new grass-root refinery projects may also get completed during the Tenth Plan, taking refining capacity to around 155 MMTPA at the end of the Plan.

The current Government decision is to continue with Bina (M.P.) and Bhatinda (Punjab) refineries and get these completed. A further view on these would be taken at the time of actual disinvestment, however."

24. The Committee treat the reply that a further view on continuation of these refineries would be taken at the time of actual disinvestment as casual. They desire that the Government should have a clear vision of the future of these refineries and this should be made public before even deciding the issue of disinvestment in Oil Companies.

(G) IMPORT OF REFINED PRODUCTS

Recommendation (Sl. No. 8, Para No. 10)

25. The present refining capacity in the country is 116.07 MMT per annum and this is expected to increase further by 56.40 MMT per annum over the next 5 years and there would not be equal demand of the petroleum products in the country during this period. In view

of this, the Committee had, recommended that the Government should ensure by legal means that marketing companies lifted the stock from indigenous refineries only and would not be permitted to import refined products from abroad.

26. The Government replied to this observation as under:-

"Government of India vide its resolution dated 8th March 2002 have prescribed an investment of Rs. 2000 crore by new entrants in eligible activities for granting authorization to market transportation fuels.

Further, in de-regulated scenario, the source of supply of products to be marketed by Oil Marketing Companies or by new entrant will be decided by the marketing companies on commercial consideration only."

27. The Committee are not convinced with the reply of the Government and observe that the Government should protect the interest of the indigenous industry and frame such rules and regulations through executive orders or even through acts of Parliament to ensure that the indigenous products are marketed fully in domestic market or through exports.

(H) MONOPOLISTIC CHARACTER OF OIL COMPANIES

Recommendation (Sl. Nos. 9, 10, 11, Para Nos. 11, 12, 13)

28. The Committee had noted that Government have decided to debar IOCL from bidding for HPCL and BPCL for the reason that after acquiring these companies, IOCL would become a monopoly. The Committee had felt that the decision was irrational and against the spirit of Article 19 of the Constitution. The Article 19 (6) (ii) permits state monopolies in any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise. The Committee had opined that the petroleum industry was a manufacturing sector and all petroleum products except petroleum and diesel can be freely imported. There was no guarantee that these products would not be under OGL in future. The Committee had, therefore, wanted that Government should review their decision to debar IOCL from bidding in HPCL and BPCL.

29. The Committee had also noted that the new entrants in the marketing sector were not debarred to source the products from import. New entrants thus might not only grab a share of the expanded market but also corner the existing market and in that case the share of the existing players would definitely come down with greater competition. The Committee had, therefore, recommended that all PSUs dealing with oil sector should be allowed rights of acquisition/merger.

30. The Committee had drawn the attention of the Government to the recommendations of the Sengupta Committee Report and had recommended that on pattern of strategic alliance as completed in IOCL, ONGC and GAIL through acquisition of equity shares of each other, only PSU Oil Companies be allowed to acquire equity of BPCL, HPCL at the reserve price or even at a higher price as mutually agreed upon.

31. The Government while replying to these observations stated as under:—

“As already mentioned, one of the important objectives of dismantling of the Administered Price Mechanism is to bring efficiency in the marketing of petroleum products through competition. This would be possible only when there are more players, both public and private. Acquiring of HPCL and BPCL by IOC would tantamount to having almost 100% control over the retail marketing of petroleum products. No doubt Government has opened up the marketing of petroleum products to the private sector: but it would take a long time for the new people to set up marketing network that could give serious competition to the gigantic and vast network of IOC combined with HPCL and BPCL. Therefore, there is clear logic in disinvestment plan of BPCL/HPCL.

A parallel cannot be drawn to the earlier decision of Government to sell the shares of stand alone refineries like Kochi Refineries, Chennai Petroleum Co., Bongaigaon Refineries & Petrochemicals Ltd. with other oil PSUs like BPCL, IOC, etc. as these companies were stand alone refineries having no marketing network of their own to market their products. Therefore, there mergers were allowed by Government based on the recommendation of the Sengupta Committee. On the contrary, both HPCL and BPCL have refineries as well as marketing network of their own to market their petroleum products and as such their

disinvestment should not be considered similar to the take over of Kochi Refineries. Chennai Petroleum Corporation Ltd. and Bongaigaon Refineries Ltd. by other Oil PSUs. Such merger/take over of HPCL/BPCL with by IOC/ONGC/GAIL would only create larger monopolies and hence, reduce value. In view of the above, the recommendation of the Committee to transfer HPCL and BPCL to IOC/ONGC/GAIL is not in the economic interest of the country."

32. The Committee regret to note that the Government have not examined the recommendations seriously before replying to them. The Government have been highlighting the important objectives of dismantling of Administered Pricing Mechanism to bring efficiency in the marketing of petroleum products through competition. The Government have also stated that this would be possible only when there are more players both public and private. In Government's opinion acquiring of HPCL and BPCL shares by IOCL would tantamount to having almost 100% control over the retail marketing of petroleum products by IOCL. The Government have themselves accepted that they have opened up the market to petroleum sector but it would take a long time for the new players to set up marketing network that could give serious competition to the network already set up by IOC, HPCL and BPCL. The Committee strongly observe that their earlier recommendations were made after thorough examination of the factual position. The Committee fail to understand the rationale in not waiting for the private players to set up their network in the country in the near future. The Government have already allowed about 7000 retail outlets to be set up in the country by the private companies and other public sector companies such as ONGC and GAIL have petitioned the Government to allow them also to set up their marketing network in marketing petroleum products. The Government have to view whether the proposed network by private players and also by ONGC and GAIL would not be resulting in healthy competition of IOCL, HPCL and BPCL. Even if IOCL is allowed to acquire the shares of HPCL and BPCL, the Government should not be in a hurry to disinvest HPCL and BPCL only for the purpose of disinvestment. The Committee, therefore, reiterate that no Indian Company should be debarred from bidding for HPCL and BPCL. The Committee would emphasise upon the Ministry of Petroleum and Natural Gas to seek the permission of Cabinet Committee on Disinvestment for allowing the public sector Oil Companies to bid for HPCL and BPCL in case of disinvestment.

33. The Committee do not agree with the reply of the Government regarding implementation of Sengupta Committee Report regarding strategic alliance as executed earlier in various oil companies. The Committee reiterate their earlier recommendation in this regard.

(I) PURCHASE PREFERENCE TO PSUs

Recommendation (Sl. Nos. 12, 13, Para Nos. 14, 15)

34. The Committee had recommended that the Government should adopt a policy to allow preference to PSUs in buying equity of other PSUs being disinvested. The Committee as a matter of policy has strongly favoured promoting indigenous companies over the MNCs.

35. The Government while replying to this observation stated as under:—

“One of the main objectives of disinvestment is to bring market discipline and greater efficiency to the disinvested PSUs by freeing them from Government control and introducing good corporate governance. In view of the above, giving any preference to PSUs to acquire the shares of another PSU would be contrary to the above objective and also the objectives for which purchase preference has been granted to the PSUs by the government.”

36. The Government further stated that:—

“Government gives equal opportunity to both indigenous companies as well as MNCs through a transparent policy for acquiring stake in PSUs. Giving any special preference to indigenous industries would be contrary to Government’s policy of encouraging Foreign Direct Investment. The policy of disinvestment cannot be framed in isolation. It should be in line with the existing industrial policy of the Government. However, the policy of allowing MNCs to acquire stake in any PSU would be within the overall framework of Sectoral FDI policy of the Government and depending on the requirement. Government would obtain security clearance of the foreign companies/parties before they are allowed to acquire the stake in a PSU. In the era of globalisation and WTO regime. It will not be advisable to have any preference for indigenous companies over the MNCs in acquiring stake in the PSUs. The overall Sectoral discipline of FDI should in most cases, apply to disinvestment also.”

37. The Committee are not convinced with the reply of the Government. Many of the PSUs in the country have acquired the status of Navratna companies and have, therefore, the full functional autonomy and are free from Government control with good corporate governance, therefore, they are already creating market discipline and are efficient in financial performance. No harm will be done if they are allowed purchase preference. The Committee therefore, reiterate that PSUs should be allowed purchase preference in buying equity of other PSUs being disinvested.

(J) MARKETING RIGHTS TO INDIGENOUS AND PSU OIL COMPANIES

Recommendation (Sl. Nos. 14, 15, Para Nos. 16, 17)

38. The Committee had recommended that requests of all indigenous companies seeking marketing rights in marketing products be expedited. The Committee had also *inter alia* recommended that ONGC and GAIL who have shown interest in distribution and marketing of petroleum products be given the marketing rights.

39. The Ministry have replied as under:—

“Government have already granted authorisation to market transportation fuels to all four eligible companies. M/s. Reliance Petroleum Limited, M/s. Essar Oil Limited, M/s. ONGC Limited and M/s. Numaligarh Refinery Limited, who had applied for marketing rights, as per Resolution dated 8th March, 2002.”

“ONGC have already been granted the authorisation to market the transportation fuels. The requests of GAIL and ONGC for grant of authorisation to market bulk/industrial/commercial LPG are under consideration.”

40. The Committee feel that the Government have not examined this recommendation in true spirit. ONGC has requested for marketing rights of all petroleum products but have been given the authorisation of marketing the transportation fuels only. Further, the requests of GAIL and ONGC for grant of authorisation for market of bulk/industrial/commercial/domestic LPG are under consideration. The Committee feel that their requests are pending for long and these companies have already made their representations to the Government many a time and have strong case for establishing their

base in the country. Therefore, the Committee recommend that a positive stand on their requests be taken immediately.

(K) VALUATION OF ASSETS OF THE PSUs

Recommendation (Sl. No. 17, Para No. 19)

41. The Committee had examined the valuation system of PSUs and were not convinced with the reply of the Government that buyer's concept of valuation has importance over seller's concept of valuation. The Committee had, therefore observed that the valuation system should not only be transparent but look credible also. The Committee had, therefore, recommended that a representative of the accredited largest union of PSUs be associated in Evaluation Committee while deciding valuation.

42. The Government reply to this observation is as under:-

"Government has formulated transparent Procedures for the disinvestment of the PSUs. The Hon'ble Supreme Court in the BALCO judgement has upheld these procedures as fair, just and equitable. Further, Government is the majority owner of the shares of HPCL and BPCL. Workers have no right to sit on the judgement of the owner of the Company, *i.e.* the Government, about the price at which the shares of the PSUs are to be sold by Government. What is more relevant is whether the Government follows a transparent procedure or not. In view of the above, MODI is of the view that there is no sound reason for Government to associate the representative of accredited largest union in the Evaluation Committee while deciding the evaluation of HPCL/BPCL. The Government need not appoint any outsider as member of the Evaluation Committee other than its own officers/experts."

43. The Committee are not convinced with the reply of the Government and observe that the valuation system needs credibility. The valuation episode of Centaur Hotel, Mumbai has shown that the system was not fool proof. Therefore, the Committee would like that it should not only be improved but made credible and, therefore, reiterate their recommendation that a representative of the accredited largest union of PSUs be associated in Evaluation Committee while deciding the valuation.

(L) CATEGORISATION OF PETROLEUM SECTOR AS CORE SECTOR

Recommendation (Sl. No. 19, Para No. 21)

44. The Committee had noted that out of 18537 retail outlets only 8579 belong to 'A' category which accounts for 46.3% of the total retail outlets. The Committee had felt that other categories of retail outlets are prone to manipulations and unstructured marketing activities often resorted to by private companies. The Committee, therefore, urged for examining the disinvestment of HPCL and BPCL thoroughly and keep oil sector in core sector.

45. The Government replied to this observation as under:-

"The proposed Petroleum Regulatory Bill, 2002 provides enough power to the Government to take care of the apprehension of the Committee. Moreover, more than 50% of the country's petroleum requirement is met by IOC, which would be in the public sector for some time to come. There is no reason to consider the oil sector as strategic sector and thereby stop the disinvestment in BPCL and HPCL."

46. The Committee reiterate their observation that oil industry should be categorised as core/strategic sector. PSU oil companies have established their network in far-flung and remote areas where return on the investments are very meagre. To ensure that these areas are served satisfactorily, is the Committee's special concern. Although the Government have issued statutory guidelines making it compulsory for private sector to set up a part of their network in these areas, yet the ground experience of the private industries in such matters is not beyond doubt. Many a time they manipulate their documentary evidences to show that they are fulfilling these obligations but in reality their concern may be only profit. The Committee have special concern for the needs of the security forces. Although IOCL is being retained as a PSU oil company to cater to the petroleum needs of the security forces yet the Committee feel the need for retaining other PSU oil companies also for the same purpose for which IOCL is being maintained. Oil sector as a part of the energy sector envisages cooperation at the international level. Prevailing political conditions in Iraq and the like of these also warrant that oil industry should be kept in the strategic sector.

Hon'ble Prime Minister while making statement in Parliament on President Putin's visit has stated as under:—

"Cooperation in energy has a long term strategic significance for both our countries. Both sides will hold regular bilateral discussion through appropriate mechanisms on global energy production and supplies which impact on our energy security. Our collaboration in the Sakhalin Gas Project has made good progress. We have agreed to extend our cooperation to projects in other areas including the Caspian Sea and to other aspects of the energy sector."

The Committee welcome this declaration and wish to see that oil/gas as the major energy sources are treated as strategic sector.

(M) PRIVATISATION OF THE PETROLEUM INDUSTRY

Recommendation (Sl. No. 20, Para No. 22)

47. The Committee had opined that the experience of all the countries in petroleum privatisation had not been pleasant and had drawn the attention of the Government towards happenings in South Korea where national economy was ruined due to privatisation. Keeping this in view the Committee had recommended to reconsider decision of disinvestment in BPCL and HPCL.

48. The Government have replied to this observation as under:—

"The Hydrocarbon Vision 2025 document clearly provides that the PSU's in the oil sector would be disinvested in a phased manner. The position that was prevailing in 1976 when Government acquired the BPCL from Burma-Shell is no longer relevant in the present day of globalisation and WTO regime. Further, the Essential Commodities Act, 1955 and the Petroleum Regulatory Board Bill, 2002 contain provisions which would ensure availability of petroleum products by Government intervention, in case of any contingency. Therefore, MODI is of the view that there is no sound reason for Government to reconsider it's decision to disinvest BPCL and HPCL."

49. The Committee observe that Government have not touched upon the experiences of South Korea in their reply. The Committee would also like to draw the attention of the Government to the experiences of the Philippines Government over the same subject and urge the Government to draw lessons from the happenings in these countries and reconsider their decision to divest in HPCL and BPCL.

CHAPTER II

RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 18, Para No. 20)

The Committee *inter-alia* would like to be assured that before granting marketing rights to new entrants, the Government would enforce investments limit of Rs. 2000 crore strictly.

Reply of the Government

The Government have issued detailed guidelines for granting authorisation to market transportation fuels to new entrants, specifying the eligible areas of investment which should result in additionality to the existing assets and/or creation of new assets in the eligible activities. Also the conditionalities of furnishing a bank guarantee of Rs. 500 crore and signing of an agreement containing conditions and milestones with the Govt./Regulatory Board would be strictly enforced.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Recommendation (Sl. No. 21, Para Nos. 23, 24, 25, 26, 27 & 28)

The Committee note that there are only 3 PSUs in Petrochemical Sector namely Indian Petrochemicals Corporation Ltd. (IPCL), Bongaigaon Refinery and Petrochemicals Ltd. (BRPL) and Gas Authority of India Ltd. (GAIL). Out of these two BRPL is very small company and not even operating to its full capacity. Its market share against major petrochemical products is 1.5% for Polyester Staple Fibre (PSF) and 4.2 Dimethyl Terephthalate (DMT). In effect, there are only 2 PSUs competing with private sector in India and also facing international competition.

Government of India have decided to disinvest their part of share in IPCL and have even invited bids. This Committee in their various reports have been recommending to the Government not to disinvest IPCL. The basic argument for their recommendations has been that IPCL is the pioneering petrochemical industry with Navratna status. Many small scale industries are dependent upon this.

The Committee note that Petrochemical Industry has a vast scope of expansion in the country. The demand of polymers and synthetic fibres are projected to grow at about 12% and 5% respectively during the next 10 years. For meeting the growing demand, additional capacity would have to be created. However, the creation of additional capacities would depend upon the factors like cost of capital, import duty on capital goods and feed stock, import duty on end products, rationalization of import excise duties, creation of infrastructure facilities.

The Committee find that the country's capacity to produce some of the petrochemical products like Ethylene, Benzene, Toluene, Polyethylene, Polypropylene is very small in comparison to global capacity. The petrochemical industry in the country is open to international competition and imports are freely allowed. Prices are fixed on the basis of landed costs of imported material. The global petrochemical industry is in an over supply situation and products are freely available. Because of WTO commitments, Government do not have effective control on their pricing.

The middle east region has a significant competitive advantage because of their cheap feed stock and other input costs. They have started influencing Indian market and also European markets. According to an estimate both Middle East and China are expected to raise their capacity substantially in the next 10 to 15 years. Hence, Petrochemical Industry in India has to compete globally and also to survive. To ensure that the Industry does not suffer from global competition, the Government are supposed to extend all help.

The Committee, therefore, recommend that Petrochemical Industry in the country should be promoted through fiscal incentives. The Committee would like to see that indigenous industry is given priority over MNCs in operation of this business. With the ensuring of disinvestments in IPCL, practically there would only be the Private Sector running this Petrochemical Industry. To promote their growth, the Government should adopt policy measures to remove hindrances coming in their way. To face the global competition, Petrochemical Industry should be liberally permitted to set up their feedstock plants. The Committee would urge the Government that dumping of petrochemical products from abroad is dealt with strictly and their imports also discouraged by levying heavy Custom Duty.

Reply of the Government

The Petrochemical Sector is one of the fastest growing sectors of the economy. This sector has been almost entirely de-licensed and de-regulated. the investors can set up a petrochemical plant by filing an Industrial Entrepreneurial Memorandum (IEM). For attracting investment in the sector, the Foreign Direct Investment (FDI) policy is equally liberal. Generally, 100% Foreign Direct Investment is permitted through automatic route except for some categories of FDI proposals which are approved on a case-to-case basis by the Foreign Investment Promotion Board. Petrochemical products are under OGL and, hence, are freely imported/traded. In case of perceived dumping of petrochemical products, the Directorate General of Anti-Dumping and Allied Duties under the Ministry of Commerce initiates investigations and recommends appropriate measures.

Thus, the framework for promotion of the Petrochemical industry is very encouraging. Nevertheless, with a view to studying various facets of the petrochemical industry, the Department of Chemicals & Petrochemicals has set up a Task Force to look into major policy issues and make recommendations for enhancing the competitiveness and growth of the sector.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

CHAPTER III

RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF GOVERNMENT'S REPLIES

Recommendation (Sl. No. 5, Para No. 7)

Government intend to retain three companies in the hydrocarbon sector under its purview *viz.* ONGC in upstream, Indian Oil in refining & marketing and GAIL in gas. In is, therefore, all the more important to strengthen the position of Indian Oil by providing level playing field in the deregulated scenario to face stiff competition from MNCs and private players so that it always holds considerable market share and remains as the flagship company of the Government. Therefore, the Committee recommend that IOCL be accorded full freedom in portfolio management, acquisition and merger with other companies. The Committee further recommend that these flagship companies including OIL be advised to conserve their resources for investments in their spheres, expansion plans and strengthening marketing network such as acquiring equity in BPCL & HPCL instead of making investments in unviable joint sector and private sector in refining or petrochemicals activities.

Reply of the Government

The above recommendation has been taken note of. Further, in so far as Oil and Natural Gas Corporation (ONGC), Indian Oil Corporation (IOC) and Gas Authority of India Limited (GAIL) are concerned, all the three are "Navaratna" PSUs and they have been duly empowered under this dispensation to take business decisions on techno-commercial and strategic considerations, including any proposal to acquire stakes in any PSU or other company. However, Oil India Limited (OIL) is a mini-Navratna company with limited powers in the above respect.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Recommendation (Sl. No. 16, Para No. 18)

The Committee attach sanctity to the welfare schemes, social laws which aim at uplifting the weaker sections of society and uphold our national honour and maintain integration. With the privatization of

undertakings in Public-Sector, the worst casualty is protection of rights of weaker sections as no reservation for jobs is envisaged in new set up. There is little possibility that our laws such as 'Rajbhasha' shall be honoured. The Committee, therefore, urge the Government to take note of this aspect also before going fast on disinvestment.

Reply of the Government

Typically Government includes a provision in the agreement with the Strategic Partner that the Strategic Partner recognises that the Government in relation to its employment policies follows certain principles for the benefit of the members of the Scheduled Caste/ Scheduled Tribes, physically handicapped persons and other socially disadvantaged categories of the society and that the Strategic Partner shall use its best efforts to cause the Company to provide adequate job opportunities for such persons. Further, in the event of any reduction in the strength of the employees of the Company, the Strategic Partner shall use its best efforts to ensure that the physically handicapped persons are retrenched at the end.

It would be difficult for the Government to insist on private partner to follow the Rajbhasha policy of the Government particularly when the private sector in India is not required to follow that policy. Even at present, the number of enterprises in the private sector is much larger as compared to the number of enterprises in the public sector and hence disinvestment of PSUs would no way affect the promotion of Rajbhasha.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

CHAPTER IV

RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (Sl. No. 1, Para No. 3)

One of the objectives of disinvestment in BPCL and HPCL is to release the large amount of public resources locked up in these companies and redeploy the same in social and infrastructural sectors. In the view of the Committee health, family welfare, primary education and other social sectors are highly priority areas. The Committee would like to state that both these companies after having been made PSUs have set up a vast network of marketing infrastructure such as port facilities, terminals, depots, LPG bottling plants, product pipelines, etc. etc. In the Committee's opinion raising of this infrastructure is also an investment which ultimately helps the common man in the society. No private company singularly would have spent on setting up product pipelines and port facilities. The Committee feel that these companies have already done considerable work in raising infrastructure and hence the objective of disinvestment is already being fulfilled. The Committee, therefore, recommend that there is no need to disinvest BPCL and HPCL.

Reply of the Government

As already stated while replying to the Standing Committee on Petroleum & Natural Gas, the primary objectives of disinvestment in BPCL and HPCL are as follows:

Releasing the large amount of public resources locked up in non-strategic PSEs and re-deploying them in high priority social sector.

Reducing Public Debt that is threatening to assume unmanageable proportion.

Transfer the commercial risk of the taxpayer's money deployed in the PSUs to the private sector through disinvestment of PSEs.

Bring market discipline and greater efficiency to the disinvested PSEs by freeing them from Government control and introducing good corporate governance.

End of public sector monopoly and bring relief to consumers by way of more choices, cheaper and better quality of products and services. The recent happenings in telecom sector are testimony to the above-mentioned benefit of privatisation.

The Committee's contention that BPCL and HPCL have already set up a vast network of marketing infrastructure such as port facilities, terminals, depots, product pipelines etc. which are in the nature of raising infrastructure and thereby fulfilled the objectives of disinvestment is not acceptable. The Government can through disinvestment in HPCL/BPCL raise resources which could be utilised in the social sector as well as raising fresh infrastructure. Further, as already mentioned raising resource is not the only objective of disinvestment. In order to realise the other objectives of disinvestment mentioned above, it is essential that BPCL/HPCL are disinvested. In view of the above, recommendation of the Committee cannot be accepted.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 6 of Chapter-I of the Report)

Recommendation (Sl. No. 2, Para No. 4)

Another objective of disinvestment is releasing manpower currently locked up in managing the PSEs and their redeployment in high priority social sectors that are short of such resources. The Committee have not been convinced with the reply furnished by the Ministry of Disinvestment that manpower released, mostly possessing skills of some nature, is expected to be suitably absorbed by the economy. India is a welfare State and it is the duty of the Government to secure the welfare of the people. Releasing of employed manpower without any alternate job is not a welfare activity. The past experience of disinvestment in Modern Food and BALCO is not a happy one. In the name of rationalization of manpower after the locking period of one year, the staff of these companies was coerced to opt for VRS and many of them are without work. There is no organized system to rehabilitate them. Minister of Labour in reply to Starred Question No. 623 dated 9th May, 2002 has admitted that the rate of growth in

employment in the organized sector has declined by 0.5% during 1999-2000. The Committee, therefore, feel that even the chances of achievement of this objective are remote and therefore, recommend that in case of disinvestment in any industry, the Government should ensure rehabilitation of such staff which is declared surplus.

Reply of the Government

As explained earlier the Government provides adequate safeguards for the employees in disinvestment cases and even in the case of rationalization, compensation package is built in. It is incorrect to say that the past experience of disinvestment in Modern Food and BALCO is not a happy one. In both the cases employee benefits have improved. There is also no evidence to show that in the name of rationalization of manpower, the staff of these companies was coerced to opt for VRS. Moreover, post-disinvestment, the protection provided to labour under the appropriate labour and industrial laws would in any case be operative. Government has always and would in future endeavour to provide an environment and opportunities for higher and higher levels of employment by pursuing appropriate economic policies.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 9 of Chapter-I of the Report)

Recommendation (Sl. No. 3, Para No. 5)

To support their point of view the Government have stated that the average dividend received by Government from HPCL and BPCL for the last five years has been Rs. 108.70 crore per annum and Rs. 95.90 crore per annum respectively. The Committee, however, find from the annual report of HPCL that their dividend during the last five years has been as under:

Year	Dividend
1996-97	83.5
1997-98	108.89
1998-99	248.71
1999-2000	284.98
2000-01	339.33

The Committee feel that payment of Dividend should not be the only basis for deciding whether the company should be disinvested or not. These companies have contributed to national exchequer by way of custom, sales tax, etc. They have increased their working capital. They have got their amount locked up in Oil Pool Account for years and even now the Government instead of having released the amount have issued Oil Bonds which fetch less than 7% interest whereas Government themselves expect 10% interest. The Committee would also emphasise that Government should take into account the basic fact that without seeking budgetary support from the Government these companies have raised the assets which are in real sense the National assets. The Committee, therefore, do not accept the view of the Government that rate of dividend of these companies is lower than that of private companies. The Committee recommend that Government should take into account the above factors also while determining the real value of dividend.

Reply of the Government

The dividend figures of Rs. 108.70 crore and Rs. 95.90 crore are the dividend payment to Government on its shareholding. The total dividend payment (including other shareholders) is higher as indicated in the above Table.

As already pointed out, the objective of disinvestment is not only to unlock the resources for better deployment but also other objectives like reducing public debt, transfer of commercial risk on taxpayers money to the private sector, bring market discipline and greater efficiency to the disinvested PSUs and end of public sector monopoly and thereby bring relief to the consumers. The contribution made by these companies by way of custom duty, sales tax, etc. is irrelevant as whether these PSUs are in public sector or in private sector, they would have to pay custom duty, sales tax, etc. These companies have raised the assets by ploughing back the huge profits they were able to make due to their monopolistic position as well as due to their being operated under Administered Price Mechanism. The moot point here is whether the unlocking of the resources by Government from these companies would be more beneficial to Government at this point of time or to retain the resources lying in these companies. The answer is definitely that unlocking would be very beneficial as had been proved in government's earlier reply that dividend received from these companies would be paltry as compared to a 10% interest on the expected realisation from the disinvestment of these two PSUs.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para Nos. 12, 13, 14, and 15 of Chapter-I of the Report)

Recommendation (Sl. No. 4, Para No. 6)

The Committee take special note of the submission made by Secretary, Ministry of Disinvestment that Government's decision not to privatize Indian Oil Corporation Ltd. was for the time being only. The Committee feel that Government lack seriousness. No company especially of the stature of Indian Oil Corporation can grow unless it prepares its perspective plan for the next 15-20 years. Such statements like 'For The Time Being' add uncertainty in planning and implementation. The Committee are of the firm opinion that Government should come out with categorical policy statement that Indian Oil Corporation shall not be privatized during the next 15-20 years.

Reply of the Government

It may not be possible for Government to formulate a policy in respect of disinvestment of a particular PSU for next 15-20 years. In the era of globalisation, no policy can be static and it requires constant review based on the internal as well as external economic environment prevailing. It is precisely for this reason that the Government has taken a decision not to privatise IOC for the time being. IOC being a Navratna company has been allowed to operate as per the well laid down Government policy and the policy of disinvestment with regard to IOC would in no way affect the performance of IOC or its perspective planning.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 18 of Chapter-I of the Report)

Recommendation (Sl. No. 6, Para No. 8)

The Committee attach a special significance for the economic development of North-Eastern region of the country. At present refineries operating in this region are life line for the region and source

of employment. The Committee are dismayed to note the approach of the Government that in case of privatization and in the free market regime, refineries in the country would adjust their crude processing level depending on domestic demand and export possibilities. Refineries in the North-East are getting major part of their crude from the region within which is not sufficient to run them to full capacity. In case of privatization, it is not necessary but they would be assured of local supply of crude oil and may have either to import or transport from coastal region resulting in increase in their input costs which would make them further vulnerable from economics point of view. The Government have announced some excise duty concession but the Committee do not consider it adequate. The Committee, therefore, recommend that the Government should first consider a special package for refineries in North-East before initiating privatization.

Reply of the Government

As of now, the North-East refineries enjoy 50% excise duty concession on their products. The Ministry of Petroleum and Natural Gas has taken up with the Ministry of Finance the issue of restoration of 100% excise duty concession to Namuligarh Refinery Limited (NRL), which was available to this refinery before 1.3.2002. As far as the issue of crude availability *vis-a-vis* the refining capacity of North East refineries is concerned, it may be mentioned that the indigenous crude availability in Assam is around 5 million metric tonnes per annum (MMTPA) against the total refining capacity of 7 MMTPA of these refineries. Considering the locational aspect as also the demand of petroleum products in the North East region, it turns out that the best feasible option is to operate the North East refineries at around 5 MMTPA *i.e.* indigenous crude available in Assam.

In addition to above, the Government is examining other issues with a view to ensure economic viability of North East Refineries in the deregulated scenario.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 21 of Chapter-I of the Report)

Recommendation (Sl. No. 7, Para No. 9)

The present refining capacity in the country is 116.07 MMTPA. The capacity is expected to increase by 56.40 MMPTA over the next five years. The consumption of petroleum products during 2001-02 is estimated to be 98.10 MMTPA. During the year 2001-02, the net exports from the country were 3.60 MMTPA. The Committee have also noted that BPCL and HPCL both are in the process of establishing grass root refineries at Bina, Allahabad and Bhatinda and have invested huge amount in pre-project activities. The Committee note with concern that already the refining capacity in the country is more than demand and what would be the situation of MNCs which happen to take over PSU Oil Companies prefer to import refined products from abroad. Another area of concern is about the future of grass root refineries which are being set up. The Committee are amazed at the reply of the Government that they would consider at appropriate stage all relevant issues relating to the feasibility for completion of on-going projects while finalising the Transaction Agreement that would be entered into with the Strategic partners. The Committee view this reply with utmost concern and feel that Government are in a hurry to disinvest without first deciding the basic issues. The announcements of the Government have already created uncertainties. The Committee, therefore, recommend that before taking any final decision the Government should ensure that all on-going projects including those which have been conceptualized such as Bhatinda Refinery in Punjab, Bina Refinery in Madhya Pradesh and Allahabad Refinery in Uttar Pradesh would be implemented and it would be legally binding for the acquired company to execute them.

Reply of the Government

Refining sector is delicensed and, as such, it is not possible to correctly assess the plans of refining capacity additions in future. The projection to total refining capacity materilisation during the Tenth Plan would depend upon several factors including domestic demand, duty structure that would affect import and export possibilities and refining margins.

At the Annual Compound Growth Rate (ACGR) of 5.7% the projected demand of petroleum products in the terminal year of the Tenth Plan would be 134.6 million metric tonnes per annum (MMTPA). This would require domestic refining capacity of 145 MMTPA. However,

if the ACGR is 3.6%, the demand in the terminal year of the Tenth Plan would be around 120 MMTPA and the requirement of refining capacity around 130 MMTPA.

As to the actual materilisation of the refining capacity, based on the present indications, the following two scenarios are likely to emerge:

Scenario—I. Keeping in view the competitive environment in the deregulated scenario, current low refining margins, the slow down of the product demand and the fact that the companies would need to make substantial investments in quality upgradation projects, only refinery expansion projects under implementation may fructify during the Tenth Plan if the product demand growth remains at the base case of 3.6%. Under this scenario, the refining capacity is expected to increase to around 138 MMTPA.

Scenario—II. If the product demand grows at a higher rate of 5.7%, then in addition to the capacity expansion projects under implementation, one or two new grass-root refinery projects may also get completed during the Tenth Plan, taking refining capacity to around 155 MMTPA at the end of the Plan.

The current Government decision is to continue with Bina (M.P.) and Bhatinda (Punjab) refineries and get these completed. A further view on these would be taken at the time of actual disinvestment, however.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 24 of Chapter-I of the Report)

Recommendation (Sl. No. 8, Para No. 10)

The Committee also recommend that the Government should ensure by legal means that marketing companies would lift the stocks from indigenous refineries only and would not be permitted to import refined products from abroad.

Reply of the Government

Govt. of India vide its resolution dated 8th March 2002 have prescribed in investment of Rs. 2000 crore by new entrants in eligible activities for granting authorization to market transportation fuels.

Further, in de-regulated scenario, the source of supply of products to be marketed by Oil Marketing Companies or by new entrant will be decided by the marketing companies on commercial consideration only.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 27 of Chapter-I of the Report)

Recommendation (Sl. No. 9, Para No. 11)

The Committee note that Government have decided to debar IOCL from bidding for HPCL and BPCL for the reason that after acquiring these companies IOCL would become a monopoly. The Committee feel that this decision is not only irrational but against the spirit of Article 19 of the Constitution of India. Article 19 (6) (ii) permits State monopolies in any trade, business, industry or service, whether to the exclusion, complete or partial, or citizens or otherwise. The Committee agree that petrochemicals is a manufacturing sector and in a manufacturing sector competition exists within the industry or even through imports under OGL avoiding a monopoly situation. But the contention of the Ministry of Disinvestment that petroleum sector is a service sector is not tenable. Petroleum industry is also very much a manufacturing sector with refining capacity in excess of 115 MMTPA. Secondly, all petroleum products except petrol and diesel can also be freely imported. There is no guarantee that even these products would not be put under OGL in future. The new entrants especially MNCs in the petroleum sector are likely to import petroleum products including petrol and diesel and this situation will certainly create competition. In this situation allowing IOCL to bid for BPCL & HPCL cannot be considered as leading to monopoly. Further, the demand for Indian petro-product is expected to grow significantly in the next decade and a growth rate of 5-6% is expected in future. Since the petro-product market would be expanded considerably, allowing room

for greater competition, acquisition of HPCL & BPCL by Indian Oil would not lead to a monopoly situation. The Committee, therefore, recommend that Government should review their decision to debar IOCL from bidding for BPCL & HPCL. The Committee draw the attention of the Government that in the past they have allowed BPCL and IOCL to acquire Kochi Refinery Ltd. Chennai Petroleum Corporation Ltd. and BRPL on a transparent formula. The Committee, therefore, also recommend that on the same principle, BPCL and HPCL may be transferred to IOCL/ONGC/GAIL in any combination as the Government may deem fit as long as the pricing formula is transparent.

Recommendation (Sl. No. 10, Para No. 12)

Government policy do not debar the new entrants in the marketing sector to source the products from their manufacturing units in India or bringing in Indian market through imports. New entrants may not only grab a share of expanded market but also corner the existing market and as happens in any industry, the share of existing players will definitely come down with greater competition. This was experienced by our PSUs. In case of Indian Oil in lubricants market, its share came down from earlier level of 60% to the level of 38% with opening up of lube market. Thus, it is extremely important for our PSUs to consolidate their positions in the domestic oil sector through merger acquisition in the refining and marketing segments to achieve economy of scale, synergy and lower costs benefiting the customers. In the recent past, the global oil sector as well as other sectors have also witnessed similar mega mergers (Exxon-Mobil, BP-Amoco-Arco. Total-Elf-Fina. etc). The Committee, therefore, recommend that all these PSUs dealing with oil sector should be allowed rights of acquisition merger.

Recommendation (Sl. No. 11, Para No. 13)

As per our recommendations of Sengupta Committee Report, Government have completed strategic alliance among Indian Oil Corporation Ltd., Oil and Natural Gas Corporation Ltd. and Gas Authority of India Ltd. through acquisition of equity shares of each other. The primary objective of disinvestment in BPCL and HPCL is to off-load Government's equity and to obtain money. The Committee recommend that on the pattern of strategic alliance as completed in the companies mentioned above, only PSU oil companies be allowed to acquire equity of BPCL and HPCL at the reserved price or even at higher price as mutually agreed upon.

Reply of the Government

As already mentioned, one of the important objectives of dismantling of the Administered Price Mechanism is to bring efficiency in the marketing of petroleum products through competition. This would be possible only when there are more players, both public and private. Acquiring of HPCL and BPCL by IOC would tantamount to having almost 100% control over the retail marketing of petroleum products. No doubt Government has opened up the marketing of petroleum products to the private sector: but it would take a long time for the new people to set up marketing network that could give serious competition to the gigantic and vast network of IOC combined with HPCL and BPCL. Therefore, there is clear logic in disinvestment plan of BPCL/HPCL.

A parallel cannot be drawn to the earlier decision of Government to sell the shares of stand alone refineries like Kochi Refineries, Chennai Petroleum Co., Bongaigaon Refineries & Petrochemicals Ltd. with other oil PSUs like BPCL, IOC, etc. as these companies were stand alone refineries having no marketing network of their own to market their products. Therefore, there mergers were allowed by Government based on the recommendation of the Sengupta Committee. On the contrary, both HPCL and BPCL have refineries as well as marketing network of their own to market their petroleum products and as such their disinvestment should not be considered similar to the take over of Kochi Refineries, Chennai Petroleum Corporation Ltd. and Bongaigaon Refineries Ltd. by other Oil PSUs. Such merger/take over of HPCL/BPCL with by IOC/ONGC/GAIL would only create larger monopolies and hence, reduce value. In view of the above, the recommendation of the Committee to transfer HPCL and BPCL to IOC/ONGC/GAIL is not in the economic interest of the country.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para Nos. 32 and 33 of Chapter-I of the Report regarding Para Nos. 9, 10 and 11)

Recommendation (Sl. No. 12, Para No. 14)

As per policy decision, the Government accord purchase preference to PSUs. On the same analogy, the Committee recommend to the Government to adopt a policy to allow preference to PSUs in buying

equity of other PSUs being disinvested. The Government's reply in this regard is not convincing. The Government's only objective seems to be to obtain money out of sale.

Reply of the Government

One of the main objectives of disinvestment is to bring market discipline and greater efficiency to the disinvested PSUs by freeing them from Government control and introducing good corporate governance. In view of the above, giving any preference to PSUs to acquire the shares of another PSU would be contrary to the above objective and also the objectives for which purchase preference has been granted to the PSUs by the Government.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-Fin.
II dated 18.11.2002]

Recommendation (Sl. No. 13, Para No. 15)

The Committee as a matter of policy strongly favour promoting indigenous companies over the MNCs. The Committee are also against debarring any company from bidding equity in other companies in any industry. The Committee feel that economics should be allowed to have its way. The Committee rather recommend that indigenous companies should be preferred and promoted in acquiring the shares in the companies under disinvestment. The Committee hope that Government would frame a policy in this regard.

Reply of the Government

Government gives equal opportunity to both indigenous companies as well as MNCs through a transparent policy for acquiring stake in PSUs. Giving any special preference to indigenous industries would be contrary to Government's policy of encouraging Foreign Direct Investment. The policy of disinvestment cannot be framed in isolation. It should be in line with the existing industrial policy of the Government. However, the policy of allowing MNCs to acquire stake in any PSU would be within the overall framework of Sectoral FDI policy of the Government and depending on the requirement. Government would obtain security clearance of the foreign companies/ parties before they are allowed to acquire the stake in a PSU. In the era of globalisation and WTO regime. It will not be advisable to have any preference for indigenous companies over the MNCs in acquiring

stake in the PSUs. The overall Sectoral discipline of FDI should in most cases, apply to disinvestment also.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-Fin.
II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 37 of Chapter-I of the Report regarding Para Nos. 14 and 15)

Recommendation (Sl. No. 14, Para No. 16)

Committee *inter-alia* recommended that all requests of all indigenous companies seeking marketing rights be expedited.

Reply of the Government

Government have already granted authorisation to market transportation fuels to all four eligible companies. M/s. Reliance Petroleum Limited, M/s. Essar Oil Limited, M/s. ONGC Limited and M/s. Numaligarh Refinery Limited, who had applied for marketing rights, as per Resolution dated 8th March, 2002.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-Fin.
II dated 18.11.2002]

Recommendation (Sl. No. 15, Para No. 17)

The Committee *inter-alia* recommend that ONGC and GAIL have shown interest in distribution and marketing of petroleum products. The Committee welcome their decision and would recommend to the Government to consider their requests on priority basis.

Reply of the Government

ONGC have already been granted the authorisation to market the transportation fuels. The requests of GAIL and ONGC for grant of authorisation to market bulk/industrial/commercial LPG are under consideration.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 40 of Chapter-I of the Report regarding Para No. 16 and 17)

Recommendation (Sl. No. 17, Para No. 19)

The Committee also examined the valuation system of the assets of PSUs and were not convinced with the reply of the Government that buyers concept of valuation has importance over seller's concept of valuation. The Committee regard the valuation system as tricky and would like that the valuation should not only be transparent but look credible also. In reply to Unstarred question No. 4085 dated 18th April, 2002 in Lok Sabha, the Government have stated that the cost of freehold land and buildings as per books of account as on 31.3.2001 is about Rs. 1396.97 crore for BPCL and Rs. 913 crore for HPCL. The Committee have been apprised that marketing capitalization of BPCL was Rs. Nine thousand crore. Without going into details, the Committee would like that a representative of accredited largest union of PSUs be associated in Evaluation Committee while deciding valuation.

Reply of the Government

Government has formulated transparent Procedures for the disinvestment of the PSUs. The Hon'ble Supreme Court in the BALCO judgment has upheld these procedures as fair, just and equitable. Further, Government is the majority owner of the shares of HPCL and BPCL. Workers have no right to sit on the judgement of the owner of the Company, i.e. the Government, about the price at which the shares of the PSUs are to be sold by Government. What is more relevant is whether the Government follows a transparent procedure or not. In view of the above, MODI is of the view that there is no sound reason for Government to associate the representative of accredited largest union in the Evaluation Committee while deciding the evaluation of HPCL/BPCL. The Government need not appoint any outsider as member of the Evaluation Committee other than its own officers/experts.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 43 of Chapter-I of the Report)

Recommendation (Sl. No. 19, Para No. 21)

The Committee also note that out of 18537 retail outlets only 8579 belong to 'A' category which accounts for 46.3% of the total retail outlets. The Committee feel that other categories of retail outlets are prone to the manipulations and unstructured marketing activities often resorted to by private companies. A situation may arise when private companies may lure away retail outlets belonging to other than 'A' category. Private companies, to meet their ends, can form cartels which might cause dislocation of supplies affecting the normal life. In that eventuality, there would be only one PSU namely IOCL to follow Government's instructions and to maintain supplies. The Committee's objective is to caution the Government not to consider the issue of disinvestment in BPCL and HPCL from commercial angle only but from other angles also. Therefore, the Committee would urge the Government to have thorough examination of the subject and keep oil sector in core sector.

Reply of the Government

The proposed Petroleum Regulatory Board Bill, 2002 provides enough power to the Government to take care of the apprehension of the Committee. Moreover, more than 50% of the country's petroleum requirement is met by IOC, which would be in the public sector for some time to come. There is no reason to consider the oil sector as strategic sector and thereby stop the disinvestment in BPCL and HPCL.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 46 of Chapter-I of the Report)

Recommendation (Sl. No. 20, Para No. 22)

The Committee feel that experience of all the countries in privatization has not been pleasant. The Committee would like to draw the attention of the Government towards happenings in South Korea where national economy was ruined due to privatisation. The Committee would also like to point out that BPCL came into being in 1976 after acquiring Burmah-Shell Company. All relevance of decision taken in 1976 has not been lost. The Committee would, therefore, like the Government to reconsider their decision to disinvest BPCL and HPCL.

Reply of the Government

The Hydrocarbon Vision 2025 document clearly provides that the PSU's in the oil sector would be disinvested in a phased manner. The position that was prevailing in 1976 when Government acquired the BPCL from Burma-Shell is no longer relevant in the present day of globalisation and WTO regime. Further, the Essential Commodities Act, 1955 and the Petroleum Regulatory Bill, 2002 contain provisions which would ensure availability of petroleum products by Government intervention, in case of any contingency. Therefore, MODI is of the view that there is no sound reason for Government to reconsider its decision to disinvest BPCL and HPCL.

[Ministry of Petroleum & Natural Gas O.M. No. G-36015/2/02-
Fin. II dated 18.11.2002]

Comments of the Committee

(Please See Para No. 49 of Chapter-I of the Report)

CHAPTER V

RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES OF GOVERNMENT ARE STILL AWAITED

—NIL—

NEW DELHI;
20 December, 2002

29 Agrahayana, 1924 (Saka)

MULAYAM SINGH YADAV,
Chairman,
Standing Committee on
Petroleum & Chemicals.

APPENDIX I

MINUTES

STANDING COMMITTEE ON PETROLEUM & CHEMICALS (2002)

Thirteenth Sitting (19.12.2002)

The Committee sat from 1030 hrs. to 1100 hrs.

PRESENT

Shri Mulayam Singh Yadav—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ashok Argal
3. Dr. Chellamella Suguna Kumari
4. Shri P.D. Elangovan
5. Shri Dilipkumar Mansukhlal Gandhi
6. Smt. Sheela Gautam
7. Shri Bijoy Handique
8. Shri P. Mohan
9. Dr. Debendra Pradhan
10. Shri Mohan Rawale
11. Shri Shyama Charan Shukla
12. Dr. Chhatrapal Singh
13. Shri Ramjiwan Singh
14. Dr. Girija Vyas

Rajya Sabha

15. Shri Balkavi Bairagi
16. Shri Rajiv Ranjan Singh 'Lalan'
17. Shri Dipankar Mukherjee

SECRETARIAT

- | | |
|---------------------|---------------------------|
| 1. Shri P.K. Grover | <i>Director</i> |
| 2. Shri R.K. Saxena | <i>Under Secretary</i> |
| 3. Shri Ram Raj Rai | <i>Assistant Director</i> |

2. At the outset, Hon'ble Chairman welcomed the Members to the sitting and explained the purpose of the day's meeting.

3. Thereafter, he invited the Members to give their suggestions, if any, on the following draft Reports being considered for adoption:-

- (i)
- (ii)
- (iii)
- (iv) Thirty-Sixth Report on action taken by Government on the recommendations contained in the Twenty-Eighth Report (13th Lok Sabha) of the Standing Committee on Petroleum & Chemicals (2002) on 'Disinvestment in Petroleum and Petrochemicals Sector'.
- (v)
- (vi)

4.

5. The Committee, thereafter, authorised the Chairman to finalise the Reports after factual verification from the concerned Ministries/ Departments and present them to the Parliament.

6. The Committee placed on record their appreciation of the work done by all the Sub-Committee of the Standing Committee on Petroleum & Chemicals.

7. The Committee also placed on record their appreciation for the valuable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

The Committee then adjourned.

APPENDIX II

(Vide Para 3 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE TWENTY- EIGHTH REPORT (THIRTEENTH LOK SABHA) OF THE STANDING COMMITTEE ON PETROLEUM & CHEMICALS (2002) ON 'DISINVESTMENT IN PETROLEUM AND PETROCHEMICALS SECTOR'

Total No. of Recommendations	21
II. Recommendations which have been accepted by the Government (Vide Recommendation at Sl. Nos. 18 and 21)	2
Percentage to Total	9.5
III. Recommendations which the Committee do not desire to pursue in view of Government's Reply (Vide Recommendation at Sl. Nos. 5 and 16)	2
Percentage to Total	9.5
IV. Recommendations in respect of which replies of the Government have not been accepted by the Committee (Vide Recommendation at Sl. Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 19 and 20)	17
Percentage to Total	81
V. Recommendations in respect of which final replies of the Government are still awaited	Nil
Percentage to Total	Nil