C.P.U. No. 437

COMMITTEE ON PUBLIC UNDERTAKINGS (1980-81)

(SEVENTH LOK SABHA)

TWENTY-THIRD REPORT

ON

STEEL AUTHORITY OF INDIA LTD.—IMPORT OF STEEL

(Ministry of Steel and Mines—Department of Steel)

Presented to Lok Sabha and laid in Rajya Sabha on 30 April, 1981

LOK SABHA SECRETARIAT
NEW DELHI

April, 1981/Vaisakha, 1903(S)

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(1980-81)

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*Elected w.e.f. 28-11-1980 in the vacancy caused by appointment of Shri P. A. Sangma as Deputy Minister.

STUDY GROUP I ON PUBLIC UNDERTAKINGS UNDER MINISTRIES OF AGRICULTURE, COMMERCE, COMMUNICATIONS, HEALTH AND FAMILY WELFARE, STEEL & MINES, RAILWAYS AND WORKS AND HOUSING

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INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to present the Report, on their behalf, present this Twenty-third Report on Steel Authority of India Ltd.—Import of Steel.

2. The Committee took evidence of the representatives of the Steel Authority of India Ltd. on 31 January, 5, 6, 27 February and 25 March, 1981 and of the Department of Steel on 26 and 27 March, 1981.

3. The Committee considered and adopted the Report at their sitting held on 27 April, 1981.

4. The Committee wish to express their thanks to the Department of Steel and Steel Authority of India Ltd. for placing before them the material and imformation they wanted in connection with the examination of Steel Authority of India Ltd. They wish to thank in particular the representatives of Department of Steel and Steel Authority of India Ltd. who gave evidence and placed their considered views before the Committee.

NEW DELHI;
April 29, 1981
Vaisakha 9, 1903 (S)

BANSI LAL,
Chairman,
Committee on Public Undertakings.

PART I

BACKGROUND

A. *Import of Steel*

1. In order to meet the gap between the demand and indigenous supply large quantities of iron and steel are imported. The imports are mostly made by SAIL. Following Government's decision in 1970 to canalise import of many categories of steel through Public Sector Steel Company, steel imports started through Hindustan Steel Ltd. In the year 1974, Government formed a separate Public Company called SAIL International Ltd. which took over the import and export functions of the HSL. However, with the reconstitution and merging of various subsidiaries, the export and import functions have once again been entrusted with the Export and Import Department of Central Marketing Organisation of SAIL.

2. The following statement shows the indigenous production of saleable steel and imports canalised through SAIL during 1978-79, 1979-80 and 1980-81 :

(In '000 tonnes)

	1978-79	1979-80	1980-81 (expected)
A. Production :			
Main producers	6556	6028	6130
Mini steel plants .	1503	1313	1729
	8059	7341	7859
B. Canalised Imports	656	1334	1460MT
TOTAL :	8191	8615	9269

(Source : Annual Report of Ministry of Steel & Mines, 1980-81)

3. The imports by SAIL are under (i) buffer, and (ii) back-to-back scheme. For certain categories direct imports by actual users are also allowed

under OGL and restricted list. The following statement shows items for which imports under OGL were allowed during the last three years :

Iron & Steel items other than those imports of which is banned, restricted or canalised. Some of the items under OGL.

1978-79	1979-80	1980-81
Non-JPC Item : Forged blooms/rounds above 520 mm etc.	Non-JPC item : Wires carbon steel wires, hardened & tempered etc.	Non-JPC items : Cold Steel strips 22mm width and below subsequently amended to 20mm vide P.N. No 12/80 dt. 21-4-80. etc.
JPC items : Blooms, Flats above 350 mm width or below 6mm thickness, Rolled Rounds above 240mm, chequered plates etc.	JPC Items : Chequered plates, plates to IS—2062 specification, Rounds IS—2062 etc.	JPC Items: Chequered plates, plates, strucutrals, rounds etc. to IS—2062 specification.

4. According to a note furnished by SAIL imported material under buffer scheme are to be supplied to core sectors of the Government and other priority sectors to make good the shortfall arising out of domestic supplies. Buffer imports introduced in 1978-79 are exempted from payment of import duty and countervailing excise duty. The materials imported are sold at the domestic stockyard selling prices. The difference between the landed cost and the domestic selling price is reimbursed to SAIL by JPC out of the import pool fund created by adding a surcharge to supplies made from indigenous sources Materials imported under back-to-back scheme are sold to the endusers on the high-seas at the same price at which import order is finalised after adding a service charge of 4 per cent.

5. The following statement shows the import plan and actual shipments of iron and steel materials through SAIL during 1978-79, 1979-80 and 1980-81 (upto December 1980).

Import plan

(Qty. thousand MT)

				Shipments (including spill over from the previous years)		
	BB	Buffer	Total	BB	Buffer	Total
1978-79 . . .	519	544	1063	537	245.2	782.2
1979-80 . . .	860	950	1810	485.2	900.2	1385.4
1980-81 . . . (April—Dec.'80)	852	692	1544	321.0	282.8	603.8

6. The following statement shows the import plan booking and shipments for 1980-81 (April-December, 1980)

(Qty. : '000 M/T)

Sl. No.	Category	Plan			Booking (April' 80—Dec. 80)			Shipments (including spill-over from 1979-80) (April '80—December, 1980)		
		BB	Buffer	Total	BB	Buffer*	Total	BB	Buffer	Total
1.	Slabs/Blooms	..	..	..	3.1	..	3.1	6.0	..	6.0
2.	Billets	..	..	..	..	..	..	..	..	..
3.	M.S. Bars & Rods	..	60	60	20.8	60.0	80.8	16.8	..	16.8
4.	Plates	491	138	629	104.2	86.1	190.3	76.2	10.4	86.2
5.	Structurals	..	334	334	35.2	255.1	290.3	23.3	136.7	160.0
6.	HR Sheets/Coils	80	70	150	170.0	133.0	303.0	37.5	80.5	118.0
7.	HR/CR Strips	..	..	..	4.4	..	4.4	1.0	..	1.0
8.	CR Sheets/Coils	109	20	129	85.6	46.3	131.9	107.5	42.1	149.6
9.	Tinmill Black Plate	50	70	120	5.5	73.4	78.9	4.6	13.1	17.7
10.	Tinplate Waste/Waste	..	..	..	10.5	..	10.5	10.0	..	1.0
11.	Tinplate Prime	..	..	..	21.8	..	21.8	6.4	..	6.4
12.	Electrical Steel	40	..	40	22.8	..	22.8	16.0	..	16.0
13.	Railway Materials	82	..	82	..	..	..	..	..	..
14.	GP/GC Sheets/Coils	..	..	..	25.2	..	25.2	23.8	..	23.8
15.	Stainless/Special Steel	..	..	..	0.8	..	0.8	0.9	..	0.9
16.	Contingencies	..	..	..	..	..	..	..	..	..
	TOTAL	852	692	1544	509.9	653.9	1163.8	321.0	282.8	603.8

BB : 'Back to Back'

*Includes order booking under 1979-80 plan also.

7. The Committee enquired as to how the quantum of imports to be made every year under each category is decided. The A.G.M., SAIL stated is evidence :

"Initially, we, the main producers inform the JPC, the Iron and Steel Controller and the Government of india, the details of our production plan. These are given not only category-wise but also section-wise. Thereafter, in consultation with JPC, Iron and Steel Controller and also consumer groups and important consumers as far as we can, we work out the demand projection, categorywise and section-wise. Thereafter, through the JPC we present the total picture to the Steel Ministry. We say, this is the production plan; this is the demand; this is the shortfall and this is the quantum to be imported, if Government so decide. Then there is a dialouge between Finance Ministry and Steel Ministry. They come to an understanding as to how much foreign exchange can be allocated for the total import, how much quantum will be under BB and how much under buffer. Under buffer, it is brought into the country without payment of import duty. So, Finance Ministry comes in. Once this is fixed, suppose they have decided that 600 tonnes will be imported under buffer, we have dialogue with the Ministry and the Iron and Steel Controller as to what will be the section-wise break-up. We take into account the various parameters and we try to pick up those sections which are required in bulk for the priority sector. Those are the considerations which come in deciding which sections will be brought under BB and which sections under buffer."

8. The Committee were informed by the Jt. Secretary of the Ministry in the course of evidence that as far as the buffer imports are concerned, we give them the quantity category-wise. As far as back-to-back imports are concerned we do not tell them as to the quantity of import category-wise. We only give them the foreign exchange availability."

9. Asked as to how category-wise imports under back-to-back are decided. The Director (Commercial) SAIL stated :

".....We have to take into account whether there are shortfalls in production which have to be made good because.....as a canalising agency our role is to give import clearance after taking into account the shortfalls in production. If production is available we do not clear it. If the production is not available, we clear it to make up the deficits or shortfalls in production, under back-to-back scheme, within the total foreign exchange provided. Category-wise, the plan made in the beginning of the year and the final decision taken do differ".

10. It was noticed from a statement furnished by SAIL that quantities cleared for import under back-to-back arrangement upto December, 1980 for various categories of steel had gone upto 11.32 lakh tonnes against which 8.82 lakh tonnes were registered for import. In the case of HR sheets and coils, as against imports of 1.09 lakh tonnes in 1978-79 and 1.59 lakh tonnes in 1979-80, the quantity cleared for imports during 9 months of 1980-81 (upto December 1980) were of the order of 5.41 lakh

tonnes against which 3.90 lakh tonnes were registered for imports. Asked about the reason for the big spurt in imports cleared during the year 1980-81, the Secretary of the Ministry stated in evidence :

"When we originally drew up total supply plan, the total shortage which was foreseen in HR coils was only 1.25 lakh tonnes. Therefore, we were expecting to meet all other requirements fully from domestic production. However, there was a total shortfall against target in HR coils of the order of 2.25 lakh tonnes. This could have been the reason for that."

11. As regards distribution of imported steel, it was explained by the Director, in the course of examination of the Ministry that so far as the buffer imports were concerned, allocations were made on the same basis as indigenous material. For instance for HR coils, there was some criteria laid down by the Department of Heavy Industry for distribution of indigenous material to individual tube makers. The material under buffer imports would also be distributed on the same lines. The total quantity available domestic and buffer is distributed according to this criteria. If a consumer wanted more it was open to him to get it under back-to-back scheme.

12. The Committee also enquired during the course of examination of SAIL as to who took the decision about the allocation of imports under back-to-back especially when advance action is taken by SAIL. The Committee were in the first instance informed by AGM that this was a combined decision. However, when asked as to who participated in this decision, the Chairman, SAIL, stated that based on the information available from the various departments, the GMM took the decision. There was also no feedback from him.

13. The Committee enquired whether the Ministery had reviewed the working of the back-to-back scheme and issued any guidelines to the SAIL at any time. The Secretary of the Department stated that no specific review had been done and added :

"The back-to-back scheme is a part of the general canalised import under the OGL. It is under the guidelines of the Commerce Ministry and the CCIE. Apart from whatever elaborate instructions are there, we have not gone deeper into it."

B. *Procedure for Imports*

14. In regard to the procedure for imports under BB Scheme, the SAIL had stated in a note:

"The endusers are required to submit their demand in the prescribed form as per Import Policy, which is scrutinised by Import Clearance Cell keeping in view the indigenous availability. The quantites allowed/cleared for import are to be registered by the endusers with the canalising agency after depositing Rs. 50,000 or 2 per cent C&F value of the materials in terms of import policy whichever is less. The registered demand is pooled together, as far as possible, category-wise and import action initiated by the canalising agency. Tender enquiries for procurement are issued from time to time. Orders against offers received are finalised in consultation with the end users depending upon technicalities. Prior to finalisation of firm orders the endusers are required to establish necessary financial arrangements covering the full C&F value of the materials including the service charges of 4 per cent payable to the canalising agency. Upon receipt of the financial arrangements either in the form of LC, or Bank Guarantee, or Advance payment in full, firm orders are released on the foreign suppliers. The materials are generally sold to the end users on 'High Seas' basis and for this purpose the shipping documents are handed over to the end user through their banking channel prior to arrival of the consigment to enable them to clear the cargo at the port. The payment is received upon negotations of documents against the financial arrangements made by the endusers."

C. *Import Clearance Cell*

15. As mentioned above, the applications from end users under BB Scheme are scrutinized by Import Clearance Cell of SAIL. Asked about the kind of scrutiny carried out by this cell, the Committee were informed by GMM in evidence :

"Whenever an application is received the Import Clearance Cell scrutinises whether the materials can be supplied from indigenous sources or these have to be imported."

16. Asked whether any enquiry is made about the genuineness of the demand, it was stated :

"The form indicated the name of the company, its registered office, capacity, requirement of imports etc. They have to enclose charatered accountant's certificate in support of the consumption in the past if required. And wherever we have got some doubt, we ask for sales tax return for the latest quarter as also the income tax certificate. We do not make any cross-check with the party and others. Iron and Steel Controller is the agency for looking after the end use of indigenous materials in the country. For imported material, Chief. Controller, Imports and Exports is nominated for this purpose."

17. The Committee enquired in the course of examination of the Department of Steel whether the Import Clearance Cell had no function to check the genuineness of the demand, the Joint Secretary stated :

"Merely on the basis of the prescribed form it is not possible to satisfy oneself of the genuine necessity of demand. But it is open for them (SAIL) to ask for additional information."

18. To an enquiry whether SAIL had asked for verification of any of the demands registered with them, the witness stated 'not to my knowledge'. To

a further question whether the Ministry was not concerned about what scrutiny SAIL did, he added :

> "We are concerned; but we have not come across the fact that SAIL has been doing too much of imports without proper verification. If we get credible information of this type, we will certainly do it."

19. The committee enquired whether the Ministry had reviewed the functioning of Import Clearance Cell. The Joint Secretary stated "we have not reviewed the performance of the Import Clearance Cell separately."

20. Asked about the justification for Import Clearance Cell being under SAIL, the Secretary of the Department of Steel stated that about 10 years ago when canalising function was given to the then H.S.L., Import Clearance Cell was functioning under the Ministry. Only about four or five years ago due to delay or red tape it was thought that as a liberalisation of the procedure it would be entrusted to SAIL, because being a commercial organisation it must have a better commercial judgement and it was hoped that things would be looked after better. The Ministry had not looked into whether it was working well or not, or what lacunae might be there.

D. *Commercial Formalities*

21. It was stated in a note by SAIL that back-to-back imports by SAIL connotes imports by SAIL as canalising agency backed by specific demands registered with it by the consumers, in keeping with the import policy/procedure and appropriate financial arrangements. In certain cases, however, where decision has been taken to allow import of the entire quantity required by the end-user and where quantity involved was substantial import action was taken in advance pending completion of commercial formalities by the end-users. From a statement furnished by SAIL it was noticed that in 1980-81 (upto December 1980) alone there were 11 cases of import of various categories of steel where advance action was taken by SAIL.

22. The Committee enquired as to who decided to take advance action without completion of formalities. The Chairman, SAIL stated that the decision rested with the Chief Executive of the CMO and in consultation with him only people could take executive action. He added :

> "I have come to discover—that in the total span of time meaningful departures from the laid down system have been occurring all the time. I have looked into that and found that from June onwards, as Mr. Kaza has come now; and also the period prior to Mr. Kaza's coming over, there have been departures from the procedure in the interest of business on the understanding of the total role that the CMO has to play to meet the deficit thrown up because of lack of production in certain fields."

23. Asked whether the arguments and reasons that warrant the departure from the laid down procedure were recorded in every case, he stated :

> "I will not be able to confirm in every case. It is a practice."

24. The Committee also enquired as to what were the criteria for distribution of imported material where advance action was taken by SAIL. The A.G.M. stated in evidence :

> "There is a variety of factors going into the determination of quantities. In the case of tube makers allocations are made. There are some percentages of fulfilments for some. What happens is that for the satisfaction of some of the demands, some aberrations or imbalances take place, for some there is a higer percentage of fulfilment, but for others there is lower percentage of fulfilment."

Tenders

25. The Committee enquired whether global tenders were invited for imports under back to back scheme and if so, what procedure was adopted for opening and accepting the tenders, SAIL had in a note stated that for import of iron and steel materials, tender enquiries were being issued to the registered suppliers who represent practically all reputed steel mills around the globe. However, the participation in the tender was not restricted to registered suppliers. Any one could participate in the tenders issued by SAIL, as long as they complied with the conditions of the tenders which stipulate, besides other things a letter of authority from the manufacturers or a bid bond for 3 per cent value of the offer. This practice served the purpose or Global tenders. However, for new products which were not regularly imported such as Tinplate Waste/waste (for the first time), Naphthalene etc. SAIL issued advertisements calling for quotations, since a list of registered supplier, was either not available for these items or not prepared, because imports of such items were only sporadic. The offers in respect of tenders were generally opened in the presence of the bidders and the contents read out. Because some of the suppliers sometimes from a sort of cartel. SAIL felt that some of the other suppliers would be in a position to quote better prices if the prices were not read out in public but kept confidential. Accordingly, the practice of keeping suppliers' quotations confidential was also being tried in some cases. This might also help in obtaining better prices in case of tenders for products where Import Tariff Concessions were applicable for import from selected countries. Further, such a step would eliminate the possibility of bidders acting in collusion to the disadvantage of SAIL. By this method, the suppliers responded better during negotations for reducing their quotations further, as they were not aware of the actual quotations given by others. In case where imports were financed by International agencies like I.D.A. etc., where purchases against global tender was one of the pre-conditions, advertisements were issued in the press calling for quotations. In such cases, tenders were opened in the presence of such bidders who might be present at the time of opening og the tenders. Orders were finalised in consultation with the users, who in turn, it is understood obtain the approval of the financing agency. As regards the authority to plate to orders it was stated that in so far as SAIL is concerned authority for approving of placement of order or acceptance of tender is exercised at different levels depending on the value of the order as per delegation of powers.

E. *Negotiations*

26. The Committee enquired whether there had been any cases of import by negotiation with individual foreign parties. It was stated in a note by SAIL that there has been cases where imports had been finalised by negotiation. Such negotiations had become necessary as some countries who earmark a certain quantity for export to India did not participate in the tenders, but made offer as and when they were in a position to undertake an order. Such offers were being availed of whenever prices were attractive, also with a view to fulfil the Trade Plan and to avail of credit facilities offered. Such negotiations were also resorted to in isolated cases where demands were urgent.

27. The following statement* as furnished by SAIL above the details of orders finalised on negotiation basis in 1979 and 1980.

*At the time of factual verification SAIL intimated that the statement shows some orders finalised on negotiation basis.

No.	Date	Name of the Supplier	Material	Qty. (M/T)	Total Value	Remarks
2635	6-4-79	BSC, UK	Sheet Piles	4,810	£1,010,100	Order finalised on the basis of section acceptable to endusers. Further, order has been placed with a view to utilise UK Grant.
2799	30-5-79	BSC, UK	Plates	62,000	£11,130,000	Under UK Grant as per Government guidelines.
3165	4-5-79	BSC, UK	Lioyds Gr. A Plates	131	£25.545	To meet urgent requirement of shipyards.
2691	4-5-79	Promsyrio-import USSR	HR Coils	18,000	Rs. 460,80,000	Promsyrioimport USSR*
3298	22-1-80	Mitsu-bish Corpn. Mitsui & Co., Japan (representing 52 Japanese Mills).	Reinforcing Steel Deformed Bars	15,300	Yen 1,499,917,000 (Rs. 5.15 crores approx.)	Order was placed against Japanese Grant Aid of yen 1.5 billion by issue of Tendh Enquiry limited to Japanese suppliers registered witer SAIL.
3382	21-3-80	Intercontinental Metals Corpn., USA.	CR Coils	2,200	$20,16,150	Order was placed at price lower than previous purchase price to meet the urgent requirement of HPCI.
3803	23-10-80	Sanyong Corpn., South Korea	Galvanised Plain Sheets	5018	$25,09,040	The order was placed at competitive prices.
3798	22-10-80	DAVAL, France	HR Coils	25,000	£75,00,000	-do-

*does not participate in Tender Enquiries and order was placed under Trade protocol at competitive prices.

F. *Price*

28. During 1979-80, out of the total availability of mild steel in the countries, distribution and price of 66.5% material were governed by J.P.C. The products of Mini Steel Plants and rerollers are not governed by the JPC. Out of SAIL's production 82.6% came under JPC control. The categories of items covered under J.P.C. included Billets, bars and rods, structurals, plates, H.R. Sheets, CR Sheets and CR Coils, GP/GC Sheets, H.R. Coils/Skelp, Rails and Railway materials, etc. The items which were outside J.P.C. purview were tin plates, electric steel sheets pipes, steels with special composition including alloy steels etc. Semis Bars and rods were also taken out of the pricing purview of J.P.C. in February 1981.

29. As mentioned earlier, buffer imports are exempted from payment of import duty and countervailing excise duty. The Department of Steel had been taking up with the Ministry of Finance to have full duty exemption on the ground that CIF price was invariably more than the JPC price. However, in the recent past, the cost of production had gone up and there was glut in the international iron and steel market with attendant price reduction. As a result the difference between import price and the stock-yard price had narrowed down and in some cases the CIF price during 1980-81 was lower.

30. The following statement compiled from information furnished by SAIL shows comparative position about price of Imported and Indigenous Steel Materials :—

Category	1980-81 (April—Oct. '80) average C& F price of imports	Average Landed Cost		Average Stockyard price (w.e.f. 14/15-7-80)
		Buffer	BB	
1. MS Bars & Rods	2512	2574	3725	2920
2. MS Plates .	2830	2944	4247	3039
3. MS Structurals .	3020	3085	4433	2970
4. HR Sheets/Coils	2744	2801	4107	3314
5. CR Sheets/Coils .	3577	3645	5371	5043
6. Tinplate Prime .	6138	6218	9761*	8245
7. GP/GC Sheets/Coils .	4284	4355	6458*	6874
8. Tinmill Black Plate . .	4453	4525	6594	4333

Note : A. (i) The import prices are inclusive of all elements for quality/thickness/size etc. Cost and ocean freight inclusive (i.e. C&F Prices).

(ii) Above average prices of imported steel are arrived at by dividing the category-wise value of imports by the quantity of imports. The import prices are C&F prices all duties unpaid. In case of Back to Back imports 'Duties' are paid by Customers directly while Buffer Imports are exempted from duties. Each product item includes the product of all categories/Sizes/specn./thickness etc. for *e.g.* prices of plates includes boiler/ship building quality and other categories of plates of various thickness/specn. qualities.

(iii) Landed cost of buffer imports arrived at by adding marine insurance and average port/clearances charges to C&F prices.

(iv) Landed cost of B.B. imports includes marine insurance port/clearance charges, custom duties, countervailing excise duty and SAIL's service charges @ 4% on C&F prices for high-seas sale.

B. Indigenous prices are based on JPC Stockyard prices for standard tested material and are inclusive of excise duty Freight element, JPC Cess Development Fund etc. These prices are arrived at on the basis of average price of GP/GC sheets/Coils, plates—all categories, CR Sheets/Coils and HR Sheets/Coils and are inclusive of average size extras and spelter extra.

There is no regular indigenous price for IMBP as it is not available for sale indigenously. However, Government fixed the above price for sale of buffer import material.

*(i) There is a preferential rate of custom duty for import of these items from S. Korea/Spain. However, calculations are on the basis of full rate of duty.

(ii) The indigenous and import price of GP/GC Sheets are not exactly comparable as minimum zinc coating for indigenous material is 375 gm/m^2 as compared to 275 gm/m^2 for imported material.

31. The Committee enquired whether the Government reviewed from time to time the international price and the domestic price to make necessary arrangements in the imports under buffer. The Director in the Ministry stated :

> "At the beginning of the year while drawing the programme for buffer imports we do take into consideration the indigenous price and the international price in the recent past. During the middle of the year we review the whole position and re-adjust the buffer programme to the extent necessary. Apart from this on a monthly basis, we do not get any information."

32. The Committee were also informed that during 1980, there were two reviews of buffer imports. One review was made in October, 1980. On the basis of that review certain corrections were made in the original buffer plan and with the approval of the Ministry of Finance the decision was communicated to SAIL on 12.80. To that a further correction was made on 24-12-80, which was necessitated because of the Asian Games requirements.

33. Asked whether at the time of review in 1980-81 the Ministry examined whether there was a case for continuing full duty exemption, the Director stated :

> "The international prices continued to be higher. On the basis of the facts and figures presented to us at the time we did the

review there was no reason to discontinue this. Therefore we continued this scheme."

34. From the statement of comparative price of the landed cost and the average stockyard price in July, 1980 as given earlier it is seen that the landed cost inclusive of duties was higher than the average stockyard price. However, since the importers under Back-to-Back scheme would not have got the additional material required from JPC, a comparison needs to be made between the landed cost and open market price in the country. During the course of evidence of SAIL, the Committee desired to have a comparative picture of the landed cost and the open market price for various products. This information was, however, not forthcoming from SAIL. In a note furnished after evidence, SAIL, however, furnished a statement of open market prices as furnished by various zonal offices of Central Market Organisation of SAIL. It is seen therefrom that the open market price in October, 1980 for some of the products was much higher than the landed cost (inclusive of duty) as shown in the following statement :—

Product	Average Landed Cost (Rs. per ton)	Open Market price (Rs. per ton)
Plates	4247	4600—5200
HR Sheets/Coils	4107	4600—5600 (HR Sheets 2.5 mm)
CR Sheets/Coils	5371	6100—7300 (CRC Sheets 0.63 mm)
GP/GC Sheets/Coils	6458	7200—8550 (GP/GC Sheets 0.63)

35. The Committee were informed by the Secretary of the Ministry during the course of evidence that in the month of February 1981, there was a price rise of 20 per cent on steel material which on an average came to Rs. 600 per tonne. Further, bars and rods, 80 per cent of which are produced by rolling mills and mini-steel plants had been taken out of the control of J.P.C.

36. According to Press Reports following the increase in the price of steel, the open market prices of steel products had shot up sharply. Indeed the upward movement in prices had started already from December last onwards. The market circles had already begun to expect an increase in the official prices. Since the official hike, the price of re-rolled products had gone up by 40 to 50 per cent. There had been a tidy premium over JPC prices ranging from Rs. 1000 to Rs. 2500 per tonne.

37. The Committee pointed out that in such a situation if the international price was below the domestic price, the end user gained if he imported under back-to-back scheme. Asked whether the Ministry had

examined that the user did not get an inordinate gain, the Joint Secretary of the Ministry stated in evidence :

> "There is a lot of under-utilisation of capacity in our industry. So, if the international market prices happen to be low and various units in the industry find it worthwhile to increase their utilisation of capacity by importing more from the international market, I think this is something which is desirable and this does not involve any discrimination because this opportunity is open to every one in the industry. When we say that Back-to-Back imports will go up when the international market comes down, it is not as if only a few people get them. Anybody can register for more Back-to-Back imports and it would be given to them. It is not that one gets undue advantage. This is one of the reasons why it does not appear to be advisable to have too close monitoring or a check of Back-to-Back imports under the circumstances where the international prices are lower than the market prices. Once the disideratum of domestic production not being affected has been satisfied there is no advantage in checking the quantity of Back-to-Back imports."

38. When pointed out that according to reports appearing in the press, there was wide-spread existence of bogus users, availability of JPC category of steel in the open market and a huge difference between JPC price and the open market price which is appropriate by the middlemen generating unaccounted money, the Joint Secretary stated that there was specific machinery in the Iron and Steel Controller and CCIE office to check the end use of the materials. He added :

> "We do get information and reports from the Iron & Steel Controller about the number of inspections carried out, in how many cases persons were found misutilising the material, how many suspension orders were issued, enquiries conducted and their results and all that. So, this is a sort of return which we get from him. As far as CCIE is concerned, we do not get any return from him. But we know that a machinery does exist to check misutilisation of imported goods."

39. The Committee enquired from SAIL whether there was any sensitive cell that kept track monitored the fluctuations in international prices and tried to determine whether it was beneficial to import under BB or under buffer and *vice-versa*. The Director (C) stated in evidence :

> "The whole question of examining these is done by the CMO Organisation. But is not sensitive to these variations. We do not have a system as such Vaguely, some people in the business may talk about it. But it is not a concerted effort not as a part of our responsibility."

40. The Committee enquired from the Secretary, Department of Steel whether the Ministry had any time given thought to the kind of marketing intelligence necessary for an organisation of this kind. The Secretary

stated that it had done in a general way. It had not made any special examination specifically. Asked whether in their judgement there had been adequate market intelligence, the Joint Secretary stated :

"Our judgement is that while there is room for improvement the performance overall has not been such as to need any radical changes while there is no room for complacency."

41. The Committee enquired whether the Ministry insisted on intelligence being supplied to them by SAIL so that they might be, armed with information before taking a decision. The Director Finance stated "We have not asked for it so for, but we can."

Pricing of Stainless Steel

42. In reply to one of the points for discussion during visit of the Committee to Central Marketing Organisation, Calcutta on 3-10-80, it had been stated :

"Certain categories of imported stainless steel are sold to the end users on 'high seas basis' at domestic selling prices which are much higher then the import prices, with a view to ensure offtake of domestic materials also. However, if the import material prices of such stainless steel items are higher than the domestic prices, the actual import prices are charged."

43. The Committee enquired during the course of examination of SAIL as to why similar policy should not be followed in the case of import of other iron and steel material. It was then stated that the position as intimated to the Committee was not correct., Subsequently, in a note to the Committee, SAIL intimated that the information furnished earlier to COPU was based on the pricing system in vogue upto 8th March, 1979. The factual position regarding the present system of pricing of imported stainless steel canalised through SAIL is as follows :—

(a) The utensil grade stainless steel imported in the form of bars, rods, flats and billets (300 series) is sold by SAIL at the administered prices as determined by the monitoring and pricing committees under the chairmanship of Chief Controller of Imports and Exports.

(b) For stainless steel items falling under the 400 series actual C&F prices plus service charges are charged as approved by the Pricing Committees.

(c) In respect of best resistant steel items used for manufacture of car valves, SAIL is authorised by the Pricing Committee to work out the prices for such items on the basis of C&F price plus their usual service margin, provided the enduser of the material is certified by the Sponsoring Authority.

Insurance

44. The Committee enquired as to whose obligation was it to have insurance cover for the goods imported. They were informed by Director

(Commercial) that SAIL asked the parties concerned whether they had taken the insurance cover or not and they ensured that insurance is covered. Whenever SAIL covered the insurance, charges were recovered from the parties.

45. It was, however, noticed that in certain cases, the insurance cover for items imported was not taken. In one of the cases in 1979 the material valued at 5.87 lakh dollars was to be sold on high seas basis to the HEC. The suppliers stated that they had sent cable advice of the shipment directly to HEC and also to the port office of SAIL. As HEC wanted credit, the matter was under correspondence. In the meantime the vessel sank and insurance cover was not obtained. The payment had not yet been released to the foreign suppliers.

46. Asked whether any responsibility had been fixed for this lapse, the Chairman stated "In a public sector undertaking such a failure cannot and should not be ignored. When I made an enquiry, I was told that no charge sheet had been issued, no inquiry had been conducted. I have ordered for one..."

G. *Direct Import by users*

47. The Committee enquired whether the end-users were also allowed to import direct the canalised items of Steel. The SAIL stated in a note that No Objection Certificates in respect of canalised items were being issued in exceptional cases as under to enable the end-users to obtain their requirements expeditiously against direct import licence.

(a) Where the number of items involved are many and quantity required per item is also small, and where it is difficult for SAIL to obtain quotations against such enquiries.

(b) Where the end-users by virtue of their terms of collaboration with overseas suppliers have to import certain types of special raw materials only from their collaborators. Here again quantities involved are generally very small.

(c) In exceptional cases, on request from Government Departments like Department of Atomic Energy. Public Sector Shipbuilding units, SAIL have agreed to issue NOC for direct import for small quantities of canalised items where such materials are required to meet the matching requirements.

(d) Where the importers such as Government Departments, Department of Atomic Energy, Ordnance Factory etc. have special arrangements for supply of materials from specific overseas sources and would not like to procure the materials from the other suorces. Here again the quantities involved are generally very small.

(e) In cases where items were decanalised during the middle of the year.

(f) Certain types of Stainless Steel (Series two) and other categories not available indigenously. No Objection Certificates are issued in terms of Public Notice No. 29 dated 2-6-79 issued by Chief Controller of Import & Export.

48. Besides the above, import policies for the years 1978-79, 1979-80 contain provisions under which the actual users can also obtain direct import licences which are mainly as under :—

(1) Advance import licence for export oriented units.

(2) Licences to the actual users where canalising agency generally failed to service the demands within stipulated period.

49. The Committee were also informed, that recently on account of heavy shortfall in production of HR coils, in a meeting held on 15-1-81 in which representative of Department of Heavy Industry, Steel, SAIL, JPC and DGTD participated, it was agreed that SAIL could issue No Objection Certificates subject to the following conditions :

(a) The total quantity for which such NOCs would be issued would not exceed 150,000 tonnes.

(b) These would be allowed only in respect of the requirements upto May, 1981. In other words, the shipments in respect of such cases should be made before the end of May, 1981. For this purpose, the registration already made with SAIL indicating the requirements upto May, 1981, would be first considered and cleared. If any balance out of 150,000 tonnes is left, these would be considered against further registrations on a "first come first served" basis.

(c) SAIL would also indicate the ceiling price for purpose of these imports.

50. The minutes of the meeting were sent to Director (Commercial) on 22nd January who participate in the meeting on behalf of SAIL. However, SAIL also issued a tender in January for import of a lakh tonnes of HR coils. As regards the reasons for it, the Chairman SAIL stated in evidence :

"A meeting was held on 20th January, in which the issue of NOC was discussed in general terms. People were pressing them to give them a NOC. If we give the certificate, it will become a precedent and there will be a spare of further applications which cannot be rejected. At that meeting on 20th January, I decided that it would be better for us to streamline the procedure so that we do not delay in making purchases and that we should not give the NOC.

I must confess that on that very day of 20th January I was. not knowing the fact that the SAIL and the Ministry of Heavy Industries had already taken a decision to issue NOC."

51. The Chairman SAIL also informed the Committee that thereafter he came to know of the decision of the meeting on 18th February and he took up the issue with the Ministry that it would not be the right thing to do but on the ground that the Government stood committed to it, he relented.

52. Asked as to how is it that Director (Commercial) who was present at the meeting of the Ministry on 15th January did not apprise the Chairman of decision, the Chairman SAIL stated : "This is our system which is wrong. I admit. I have requested the Ministry that the CMO Organisation being under SAIL and I being the Chairman, in all these meetings what they talk and the decision they take should come directly to me so that I can depute the people and I get the minutes of the meeting and they have promised that they will do it."

53. Asked about the reaction of Ministry to the fact that Director (Commercial) did not inform Chairman about the decision of the inter-departmental meeting, the Secretary of the Ministry stated in evidence :

> "We are not able to comment on it. So far as this Ministry is concerned, Mr. Kaza represented SAIL. We cannot say anything about the line of communication between him as the Director and the Chariman of SAIL."

54. Asked about the position in regard to the tender floated, the representative of SAIL stated that they had received tenders from 20 parties. If they had pursued negotiations, they could have imported about 1.5 lakh tonnes. Most of the tenderers had agreed to give deliveries during April, May and June. However, in view of the decision taken to issue No Objection Certificates the matter was not pursued.

55. In reply to a question the Committee were informed that had SAIL imported HR Coils under back to back scheme, instead of issuing No Objection Certificate SAIL would have collected about Rs. 75 lakhs as commission.

56. The Committee also enquired from the Ministry whether in any of the quarterly review meetings which the Ministry had, SAIL was asked to take action to meet the demand for HR coils before taking decision to allow No Objection Certificates. The Joint Secretary of the Ministry stated in evidence that on 18 November, 1980 there was a Performance Review Meeting on import-export and distribution problem of SAIL. The relevant portion of the minutes of that meeting were :

> "The lesson to be learnt was that there was need for greater expedition in arranging imports in a situation where indigenous production was suffering because of serious constraints."

In this context mention was also made of the need to simplify short term import procedures for Back-to-Back imports.

57. Asked about the action taken by SAIL on the decision taken on 15th November, the witness stated :

> "On the 15th November, what was discussed and recorded was communicated to SAIL. They were not able to gear themselves up so much so that the industry and the other administrative Ministry came up with the complaint that their factories were closing."

58. In reply to a question, the Secretary of the Ministry conceded that one of the reasons for canalisation of imports under B.B. Scheme was that when there was canalisation, there would be little scope for corruption, black marketing, profiteering and under-invoicing.

H. *Import of 25,000 tonnes of H.R. Coils from France*

59. The Committee examined in detail the case of import by negotiation 25,000 tonnes of H.R. Coils from Daval, France against P.O. 3798 dated 22-10-80. The value was US $ 75 lakhs.

60. In July 1980, SAIL had registered demand for H.R. Coils for 48,000 tonnes. A tender was issued on 29th July, 1980 for 50,000 tonnes with quantity variation of plus or minus 30 per cent. On the basis of these tenders orders were placed for 72,000 tonnes of H.R. Coils on three parties in September, 1980 at prices ranging from 323 to 330 US dollars per tonnes, for shipment to Bombay, Calcutta and Madras.

It was stated in a note recorded by GMM that —

> "after the finalisation of the above Order Japanese suppliers approached us verbally requesting to accept about 5000 MT of HR Coils to Calcutta at the same prices at which contract had been finalised by us. R.S. Jhaveri & Co., Agents of Daval, France informed that they can offer about 40,000 MT at CF price of $ 300 for Bombay. As this was lower by about $ 23 per MT they were asked to give the offer in writing".

61. A letter No. RSJ/KMG/80 dated 19-9-80 was received from M/s. Jhaveri. The letter while referring to the personal discussion which Mr. R. S. Jhaveri had with Mr. Subramaniam (GMM) confirmed the offer of the company for 25000 MT HR coils @ US Dollars 300 per MT C&F Bombay with interest at 11 per cent per annum extra for 180 days credit. The quotation was valid for acceptance till 6 P.M. on 19th September, 1980.

62. The Committee enquired from GMM as to when did he receive this letter. He stated :

> "I was in Bombay on 19th and 20th September, in connection with a meeting with the Director, Commercial to discuss home sales, export problems and clearance of stock. I reached Bombay, I think in the morning on 19th. This letter was handed over to me at Bombay in the afternoon."

63. To an enquiry as to why the offer was reduced by the party from 40,000 tonnes to 25,000 tonnes, the witness stated :

> "The party is free to sell the material to whomsoever he likes. There are tube makers who regularly import for the advance production. They might have booked contract directly and sold the material to other parties."

64. The Committee enquired as to how M/s. Jhaveri were able to offer lower price than received earlier in tender by SAIL. The AGMM stated that there was the so-called London Committee. It consisted of the EEC Group and Japan. They had formed a Cartel. Any tender which was issued by anybody was discussed by them there in the meeting. They decided who should participate as well as the quantity among themselves. When tenders were not issued, the manufactures were able to quote lower prices.

65. As regards the validity of offer being so short the witness stated :

> "Because of the London Committee, he did not want to give an offer of extended validity. He discused the matter with our AGM also. We asked him to extend the validity."

66. To a question whether the matter was discussed by GMM with anybody else before asking for extension of validity, he stated that both he and AGM came out of the meeting and discussed the matter together. At that time CFA could not come out because some matters relating to Finance was being discussed. He asked the party to extend the validity and to reduce the price further to the extent possible.

67. In reply to a question the GMM also informed the Committee that he did not put the initials on the letter received on 19th, nor was it recorded in the dak register because 'we wanted the transaction to be kept confidential'. Asked whether there were any other such cases where such letters were not recorded he said, "I don't remember any case except this one."

68. To a question to GMM whether there was any evidence to show that he had asked for extension of time, he stated "excepting oral discussion there is no evidence. But while putting a note for approval I referred to the discussion we had."

69. Asked as to when was the letter extending the validity was received, the GMM stated that it was on 20th September, when the meeting was over. Thereafter a note was written in hand by him and submitted to CFA on the same evening.

70. Asked about the action taken by CFA, the GMM stated "he applied his mind. We had discussed the matter earlier and after going through the note he recorded,—

> "Orders may be issued subject to reconfirmation in the usual manner and we may inform the Chairman."

71. The Committee also enquired whether the note was put up to AGM. The GMM stated :—

> "He was on tour to Calcutta and subsequently went on leave. I have written in the main note that the AGM and CFA had agreed. AGM was not there on the 20th."

In reply to a question the AGM, however, stated :

> "I have not seen it, but I was in the know of it. I was present when the discussion took place with the representative of the Company, Mr. Jhaveri. He showed me the letter in Bombay. After discussion we thought it was a good deal, because the price was very low. I left on the 21st morning. How the note did not come to me and I did not sign it, I would not be able to tell you."

The AGM also informed the Committee that he went on leave on 1st November.

72. The letter of intent was issued on 22-9-80 followed by purchase order on 22-10-80.

73. It also transpired during the examination of SAIL that the GMM who conducted negotiations for this deal was Additional Financial Adviser but was looking after the Imports and Exports. It was in pursuance of an order issued on 31st July, 1980 by AGM (P&MD) that he was asked to look after the work of Import/Export contracting and to exercise the powers delegated to GMM (E&I).

74. Asked about the reasons for it the Director (Commercial) stated "I have put Mr. Subramaniam in charge of marketing in July. I did it because of the background of experience he has got in the import work in the HSL for number of years . . . . That is why I shifted him from his finance duties to the marketing duties and when I shifted him, he did not perform any financial duties."

75. Asked whether Director (Commercial) had powers to appoint AFA as GMM, Chairman, SAIL stated :

> "These orders were objected to by me. I said the orders regarding work distribution should have relevance to the designations people had."

He added :

> "It is not his privilege at that level to appoint him, but I must also tell you that this power has been taken over by me after I became the Chairman because I thought that this Company is an operating company and not a holding company and therefore, powers of transfer and promotion of people above the Superintendent rank vest with me. Many of these powers were delegated. Earlier this power was not with the previous Chairman."

76. The Committee also pointed out that in the statement of Delegation of Powers furnished to the Committee there was no reference to delegation

of the power to GMM to negotiate a purchase without inviting tenders. The Chairman, SAIL stated :

"I have had occasion to go into it namely the type of delegation of powers to the Director (Commercial). It is a negative delegation. Now it has come to my notice that the Director (Commercial) had given away this power down below which is not correct. I had asked for a review to be made. We will have it reviewed."

77. From the notes furnished by SAIL in regard to delegation of powers it was noted that on 17.9.80 Director (Commercial) proposed *inter alia* that 'the GM/AGM's will exercise the powers of Director (Commercial) in regard to matters in their respective area of work. This will be in modifications and supersession of powers delegated to them in earlier orders. In regard to matters having financial implications, the delegated powers will be exercised in consultation with the concerned Additional Financial Adviser.'

78. The C.F.A. recorded thereon that very date that 'Director (Commercial) may delegate the powers to GM/AGMs as proposed. However on 19-9-80, AGM(P&Ms) recorded that CFA informed from Bombay on 19-9-80 that this may be issued only after the issue of Board of Directors/ minutes. Again on 23-9-80 he recorded that AGM (GVS) informed that Director (Commercial) informed him that minutes have been issued hence this order may be issued. This was discussed in COM meeting on 23-9-80.' The orders delegating powers to GMS/AGMs of the CMO were accordingly issued *vide* office order No. CMO/COM/4/80 on 26-9-80.

79. During the course of evidence, the Committee enquired as to when was the meeting of the Board held and when were the minutes of the meeting of the Board issued. The Chairman, SAIL stated that the Board decided to delegate powers to Director (Commercial) at their meeting held on 9th September. The Minutes were, however, issued on 6th October, 1980. According to this the Director (Commercial) was delegated full powers *inter alia* in all cases of commercial matters pertaining to import of steel other than any contracts and commitments for purchase of materials involving a period longer than one year and of a value exceeding Rs. 500 lacs in each case.

80. To a question that in such a case, did not the validity start from 6th October, the Chairman, SAIL stated :

"The fact remains that in case the members of the Board know that a following decision has been taken, then certainly they obtain mental freedom of acting in that Direction. But till such time it is officially announced the previous delegation of powers would hold good."

81. Asked about the reasons for delegation of all powers relating to purchase, tenders etc., the Director (Commercial) stated :

"Purchases are always considered by a Committee of officials. They come to conclusions and at no time in my experience I have interfered with the decisions of the Committee."

82. Asked whether the Chairman was informed about the extent of delegation of powers, he stated :

"Chairman's approval was not required for my sub-delegation and it was not necessary that I should inform the Chairman that I have sub-delegated my powers like this."

In this connection, Chairman, SAIL stated :

"When I came to know about it, I discussed the matter with him and I had issued orders that it should not happen that most of the purchase decisions should only be taken at a junior level by a Committee. While a Committee's decision of a purchase or a sale is a good safety power, even the delegation of power does not mean complete surrender of all your responsibility. That was my view. But Mr. Kaza has his own views, but I disagreed with him, and I am now issuing an order regarding delegation."

83. As regards the purchase the GMM recorded in the file on 21-10-80 that 'Chairman has accorded approval on 18-10-80.' The Committee enquired whether it was necessary to get Chairman's approval, the GMM stated in evidence 'Not necessary'. Asked as to why did he then get his approval, he stated "it was '*ex-post-facto*'." Explaining the position, the Chairman, SAIL stated :—

"While they had placed the orders, i.e. letter of intent on this party, they also tried to seek a very important permission to do this sort of a personalized negotiation. I have my strong reservations on this, and I said that firstly, this was violative of the tender procedure. And I had also indicated that in case we had to do it, we should formalize it in a proper manner. On this, there were 3 notings, and I had said that in case you were going in for a tender and trade with cartels, you must find a method for doing it. I said : before you place an order on a second party on the basis of a private negotiation, you must give a 48-hour notice to people in the list, so that the lowest tenderer should match the price and there is no violation of the tender documents. You should first give an opportunity to that party, to match the price. When this came to me, they said : we have already committed about a month earlier, to one party. And I think it had reference to the Jhaveri case.

"I said : If you have committed and placed an order. I am doing it ex-post-facto. But no further action of this nature should be done till such time as things are formalized. I have my rigid views on this. I wanted to be flexible, but I thought it was better to formalize. I thought this freedom would do no harm. To prevent this as a policy decision, I had objected to this ; but I had given it ex-post-facto sanction, as a commitment had been made. There was an order. There is again re-confirmation. It was not known to me ; and in any case it was an ex-post-facto approval, as proposed now, and as approved by me. The file should have come back to me indicating that it was not an ex-post-facto approval, and that I might kindly approve the placing of the order. Since the file did not come to me, and since the matter has come before COPU, I understand that it was Letter of Intent first and re-confirmation later. My objection on this was already recorded strongly. It should have come back to me."

84. In reply to a written question before evidence as to how many times the officers of the SAIL or of its CMO undertook foreign trips in connection with the import of steel materials, SAIL had stated that "during 1980-81 no visits abroad have been undertaken by SAIL officers in connection with import of steel materials. During the course of evidence of representatives of SAIL it, however came out that GMM had visited Paris in October 1981 and had discussion with M/s. Daval in connection with the Purchase Order for import of H.R. Coils placed on them. Similarly Director (Commercial) also went to Bulgaria. Asked about the purpose of visit, Chairman, SAIL stated :—

"I had gone personally to deal with the problem of Kudremukh concentrates and the export of ingots and slabs. When the issue was raised that they wanted to sell some steel to us and they showed some interest, I said that I would go to Rumania and they (Shri Kaza and Subramaniam) would follow up with the other countries. Therefore, that is the reason why they had gone to Bulgaria."

85. As mentioned earlier one of the considerations for placing the order by negotiation was stated to be that the price was very attractive. However, after the offer was received from M/s. Jhaveri there were also other offers received from several other parties. For instance, M/s. Kalinga Tubes Ltd. forwarded on 3rd October, an offer from M/s. P. L. Bhatt & Co. on behalf of their principals in West Germany offering 20,000 M.T. of H.R. Coils at the rate of DM 558 (equivalent to US $ 310/- per MT) with 180 days interest free credit and requested SAIL to place purchase order on this party. As against it, the offer of M/s. Jhaveri with credit facilities was at a price of US $ 315/- per MT as mentioned in the following note recorded by them on a letter received by SAIL on 4-10-1980. "We agree to book additional quantity of 10,000 MT of H.R. Coils at price of US $ 315/- MT C&F Bombay inclusive of credit facilities of 180 days from date of B/L. Other terms and conditions same as of your letter of intent for 25,000 MT dated 22nd September. In case of L/C at sigh prices are US $ 200/- MT, C&F Bombay."

86. The Committee enquired as to why the offer of M/s. P. L. Bhatt was not considered. The GMM stated in evidence : "We got the letter on the 7th October. On the same day its validity also expired." Asked whether they could not be asked to extent the validity the witness stated in evidence on 27-2-1981 that the party was asked orally on the 7th itself to extend it and he said that he would try but he did not extend it later. It is, however, noticed that the letter of M/s. Kalinga Tubes clearly mentioned that 'even though the validity of this offer has been stipulated as till 7th October, 1980, the party has discussed and confirmed that extension of validity date upto a reasonable period is acceptable to them'. The Chairman, SAIL also conceded that 'the offer was not over' on 7th October, 1980.

87. It was also stated by GMM that taking into consideration the State Bank of India Exchange rate the offer of M/s. P. L. Bhatt @ DM 558 did not work out to $ 310* as stated in the forwarding letter of Kalinga Tubes Ltd. It was, however, noticed that in another offer dated 3-10-1980 received from Trade & Marine (France) the price mentioned was '317 US dollar or DM 574'. Calculated on that basis the rate of DM 558 works out to only US dollars 308.

88. In a note received from SAIL after the evidence on 27-2-1981, it was, however, stated :

> "The offer of M/s. P. L. Bhatt & Co. given at the request of M/s. Kalinga Tubes Ltd. at DM 558 per MT C&F Vizag with 180 days interest free credit is for specific sizes and thickness with elongation 25 per cent minimum as against the offer of M/s. R. S. Jhaveri & Company for all the sizes as per our last tender and as such not comparable.
>
> For purpose of evaluation, quotations on cash basis are only taken into consideration as the credit terms differ from different sources of supply and as there are greater uncertainties of currency fluctuations."

89. In a subsequent meeting of the Committee on 25-3-1981, Director (Commercial) stated in this connection :

> "All the quotations which Kalinga Tubes have sent to us are in the nature of a request for direct imports which we were not entertaining at that time."

90. The Committee also enquired whether there was any request from Gujarat Steel Tubes to issue no objection certificate for import of H.R. Coils @ US dollars 285 per MT. SAIL stated in a note that Gujarat Steel Tubes had made a verbal representation in October, 1980 for no objection certificate for import of H.R. Coil at US 300 dollars per MT.

91. In the note recorded by GMM on 20-9-1980 it was stated that the quantity (25,000 tonnes) can be covered under back-to-back or under buffer depending on the receipt of the allocation for buffer from Ministry. The Committee had called for information on various points regarding the import of steel from the Ministry on 25th October. This was received on 14th and 15th November. In a statement furnished therewith in regard to orders placed for import under back-to-back for H.R. Coils in 1980-81, a quantity of 5200 only was shown against this order. Asked to explain this discrepancy, the GMM stated in evidence that there was buffer allocation of 45,000 tonnes to be imported during 1980-81. They were expecting allocations from DGTD. The allocation was not received. The order was initially placed under back-to-back scheme. After the letter was received from DGTD on 24-10-1980 that based on our own judgement we can made allocation. On 1st November it was changed from back-to-back to buffer. It was further clarified that 19,800 tonnes was covered under buffer and 5200 tonnes under back-to-back.

*At the time of factual verification SAIL intimated that according to State Bank of India Exchange it worked out to US dollars 313.

92. Asked as to who took this decision, the Director (Commercial) stated :

> "In regard to the back-to-back scheme, on the 22nd October, we had to finalise the matter. I raised it with the AGM connected with imports and exports. He was present in my room at that time (on 21-10-80) and Mr. Subramanium was also there. I felt that when we were getting this item at $ 300, we should take it in buffer. I could get it only on back-to-back scheme as then the question of how much we should give to each party under buffer will arise which was not known at the time."

He further added : "The decision to convert it into buffer was under my guidance."

93. As regards the criteria adopted for allocation of material to these parties either under buffer or back-to-back, the G.M.M. stated :—

> "7 parties were cold rolling units and they were made allocations under back-to-back, whereas the remaining 21 parties were all tube makers for whom the Ministry of Industrial Development made allocations every month. Based on their allocations, distribution was made to these parties under buffer."

94. The Committee pointed out that in the annexure to the Purchase Order, 28 groups had been specified and it had been stated that consignments had to be sent separately to them. Asked as to whether in the case of buffer scheme the end-users were known, the G.M.M. stated that "in buffer also to the extent of 80 per cent of the import we link it up with the customers".

95. Asked whether the approval of the Ministry was required for changing orders placed from back-to-back scheme to buffer scheme and vice-versa, the Joint Secy. of the Department stated :—

> "If the decision to shift from back-to-back to buffer increased the quantity of buffer import beyond the quantity which had been specified in the sanction order, then certainly it could not have been done without consulting us. If that is done within the original allocation of that particular commodity then they need not come to us."

96. He, however, added that SAIL had been asked to bring out guidelines for their internal use. The guidelines are to be supplied by the Chairman and Board of Directors.

I. *Purchase of GP/GC Sheets*

97. A total quantity of 26700 tonnes of GP/GC Sheets were also purchased during April—December, 1980. 5018 tonnes of GP/GC Sheets were purchased by GMM by negotiations from Sangyong Corporation South Korea, in October, 1980 as the party who had originally booked the order backed out. Asked about the reasons for making this purchase, the GMM stated in the course of evidence that "There was a registered demand of

37,000 tonnes and JK Small Industries Corporation wanted 1500 tonnes immediately. The party had contracted at 565 dollars per M/T, whereas by negotiations, the suppliers agreed to give at 500 dollars. As ready material was available, the delivery was taken.

98. It came out during evidence that in a tender issued in October, 1980 the price negotiated by SAIL for GP/GC Sheets ranged from 480 dollars to 505 dollars with a proviso that if the quantity ordered was less than 5000 tonnes the price would go up by 10 dollars per tonne. Even *ex-post facto* sanction of the Chairman was not obtained in this case. In this connection, Chairman, SAIL stated :

> "I have referred this case to the CBI because the facts as known to you have also come to my notice subsequent to the COPU meetings. I had given approval in one case as *ex-post facto* because there was a commitment by the import Department and I was convinced that that was the lowest offer as indicated on the file. But I am also surprised that this deal has been struck in spite of my three notings on the file. I find from the records that a letter came to me from the parties who were negotiating. I had marked the papers to Director (Commercial). The Director (Commercial), it would appear, sent a message to Calcutta that we should try to avoid any implications in this, because it can become a dispute. Now Mr. Subramaniam explains that there was an order, the demand was there and, therefore, he has bought this. I do think that there is an element of over-reaction."

J. *Cases under investigation*

99. The Committee were also informed after evidence that the purchase of 25,000 tonnes of H.R. Coils from the Trade Firm and the purchase of 5200 tonnes of GP/GC Sheets from the South Korean Firm are under investigation by the CBI and the results of the CBI enquiry are awaited and that action if any on the part of SAIL would be taken on hearing from CBI.

100. From a statement furnished to the Committee it is noticed that the following cases have been registered by CBI against employees of Central Marketing Organisation during the last 5 years for showing favour to private parties or on account of disproportionate assets :—

Sl. No.	Case No. and date	Allegation	Position of the case
1	2	3	4
1977			
1.	PE-8/77 dt. 9-11-77	Favour to private parties	CBI recommended departmental action. In consultation with C.V.C., major penalty initiated. Report of CBI awaited.

1	2	3	4
1978			
2.	RC-2/78 dt. 8-78	Favour to private parties.	CBI recommended departmental action. Major penalty had been initiated on the advice of C.V.C. Proceedings lapsed due to superannuation of the employee.
1979			
3.	RC-12/79 dt. 31-3-79	Favour to private party.	On 12-12-80 were recommended minor penalty to C.V.C. CBI had recom n[illegible]d departmental action.
4.	RC-7/79 dt. 26-12-79	Disproportionate assets.	CBI reports is awaited.
5.	RC-60/79 dt. 14-12-79	Disproportionate assets.	CBI report is awaited.
1980			
6.	PE-4/80 dt. 24-6-80	Misuse of official position to get favour from private party.	CBI recommended departmental action. We have recommended major penalty to CVC on 11-3-81. Their advice is awaited.
7.	RC/24/80 dt. 30-1-80	Disproportionate assets.	CBI report is awaited.
8.	*RC-33/80 dt. 28-7-80	Disproportionate assets.	CBI report is awaited.
9.	RC-8/80 dt. 25-11-80	Disproportionate assets.	CBI report is awaited.

*Non-executive employee.

PART II

CONCLUSIONS/RECOMMENDATIONS OF THE COMMITTEE

In order to meet the gap between the demand and indigenous supply, large quantities of iron and steel are allowed to be imported. The imports are mostly made by SAIL. Certain categories are also directly allowed to be imported by the actual users. The imports by SAIL are under (i) buffer and (ii) back-to-back schemes. The total imports by the SAIL are of the order of about 550 crores per annum. The buffer imports introduced in 1978-79 are duty-free and are pooled together with the domestic production for sale at a uniform stockyard price as per the JPC allocation. The SAIL is the canalisng agency for imports of the categories of iron and steel not allowed to be imported direct by the users. These imports are made under the back-to-back arrangement, which was introduced long ago (1970). The materials imported under this arrangement are sold to the users on the high seas at the same price at which each import order is finalised and a service charge of 4 per cent of the value is recovered by the SAIL. The Committee's examination of the imports and allocation thereof among the users revealed a number of shortcomings.

2. The imports are subject to a foreign exchange ceiling. The category-wise quantum of imports under the buffer scheme is settled by Government in view of the duty exemption on such imports. However, the allocation of imports under the back-to-back arrangement is left entirely to the SAIL. There are no policy guidelines in this regard issued by the Government to the SAIL. An Import Clearance Cell is located in the SAIL itself. The users desiring imports through SAIL under this arrangement have to get the clearance of the Import Clearance Cell before registering their demands. The Cell did not appear to verify the genuineness of the users. There was not even a test check of the enduse of the imported material. It is, therefore, surprising that the Administrative Department did not consider it necessary all these years to issue any, instruction regarding the checks to be exercised and follow-up action to be taken by the SAIL.

3. In terms of import policy/procedure the quantities cleared for imports by the Import Clearance Cell are required to be registered with the SAIL, depositing Rs. 50,000 or 2 per cent of the c.i.f. value whichever is less. However, these formalities are not strictly observed in all cases. The Committee note that unrestricted imports of certain categories of steel have of late taken place. In some cases of imports normal purchase procedures have not been followed. Purchases have been made on private negotiations on unsolicited offers. These have given room for certain doubts regarding the bonafides of the purchases.

4. The Committee went into a specific case of imports of 25,000 tonnes of HR sheets in coils from a French firm through an Indian agent. The

relevant purchase order was placed on the firm on 22 October, 1980. The Chairman, SAIL, informed the Committee that he was personally against purchases on private negotiations and that he had to accord post-facto approval as he thought the order had already been placed. However, it turned out that only a letter of intent subject to reconfirmation had been issued before the orders of the Chairman were taken. There was another case of import of 5018 tonnes of galvanised sheets from a South Korean firm where no approval of the chairman was sought for. There purchases were preceded by significant changes of officers dealing with imports in the C.M.O. of SAIL. These changes were made by the Commercial Director, SAIL, who, according to the Chairman SAIL, had no authority to make such changes. Though the Commercial Director is the top Executive for the C.M.O., he had sub-delegated all his powers in regard to imports to subordinate officers even before the powers were formally delegated to him by the Chairman, SAIL. The import from the French firm, which was to be under the back-to-back arrangement, was subsequently converted mostly as buffer import. The circumstantial evidences that mainly led the Committee to entertain some doubts about the bonafides of the purchase from the French firm were (i) undue secrecy and haste in negotiation, (ii) easy accessibility of the officials concerned at a place other than their headquarters to the Indian agent of the French firm (iii) failure to clarify to the Chairman, SAIL that firm order had not been placed when "ex-post-facto" sanction was given by him, and (iv) visit of the official concerned to the French firm in Paris after placement of order, though the Committee were informed that no foreign visit had taken place in connection with imports. The Committee did not go into the purchase from the South Korean firm in such detail. However, they understand that both the cases of purchases from the French firm as well as from the Korean firm, are under investigation by the CBI. The Committee would await the outcome.

5. The users getting imported steel under the back-to-back arrangement undoubtedly get an advantage, when a comparison is made of the landed cost with the open market price in the country. The market price of products of mini steel plants, rerollers and traders, which are outside the purview of the JPC, is not monitored by the SAIL. A perusal of open market prices quoted by the 'Economic Times' in the recent past shows that these were much higher than the landed cost of imports under the back-to-back arrangement. Since there is no check by the canalising agency, SAIL to ensure that there is no resale of imported steel there is possibility of so-called 'users' profiteering, taking advantage of the higher open market price. In fact, according to reports appearing in the Press there is widespread existence of bogus users, availability of JPC categories of steel in the open market at a very high price and a huge difference between the SAIL stockyard price and the open market price, which is appropriated by the middlemen, generating unaccounted money. On the whole, the Committee have received an impression that the import mechanism of SAIL is not working satisfactorily. The Committee, therefore, recommend that the back-to-back arrangement of imports should be critically reviewed to ascertain whether this arrangement is still relevant and whether the entire imports could be made under the buffer scheme. If it is found to be relevant it should be altered in a manner that it leaves no room for any malpractice. Detailed guidelines should also be issued to the SAIL inter alia laying down the nature of checks to be exercised and the criteria for allocation of imports. In this connection the Committee also desire that the Import Clearance

cell should be located outside the SAIL, preferably in the Department of Steel. If it is not possible it should be at least located outside the CMO of the SAIL, say, in the head office of the SAIL. The organisational structure and the delegation of powers in the CMO of the SAIL should also be rationalised. Except in very exceptional cases imports should be made only on the basis of tenders. The Committee further recommend that on the basis of a thorough review of the present import mechanism in the SAIL, Government should also consider seriously the basic issue whether a production enterprise, which the SAIL is, should at all be entrusted with the responsibility of canalisation of imports.

6. Though the Secretary, Department of Steel, took the position initially that the imports were canalised through SAIL in view of bulking advantage, he conceded that the idea was to obviate malpractices in imports. The Committee note that a decision has been taken recently to allow individual users to directly import 1.5 lakh tonnes of HR sheets/coils on 'no objection certificates' obtained from the SAIL. The Committee apprehend the possiblity of malpractice in allowing such large-scale direct imports. They feel that normally the import should be only through the canalising agency and inexceptional cases if direct imports are allowed. Sufficient precautions should be taken to see that there are no malpractices. It is unfortunate that reportedly the SAIL could not make the imports expeditiously and direct imports of this order had to be allowed which also entailed a loss of commission of about Rs. 75 lakhs for the SAIL.

7. In the past the international prices of iron and steel were higher than the SAIL stockyard prices. The Department of Steel has been taking up with the Ministry of Finance to get cent-per-cent duty exemption on the buffer imports. The cost of the domestic production having gone up now and there being a glut in the international iron and steel market resulting in price reduction, the difference between the c.i.f. price of imports and the domestic stockyard price has narrowed down since July 1980; for some categories the c.i.f. price is lower. It should be noted that the stockyard prices have been considerably raised in February 1981. In such a situation, full duty exemption was not warranted. Admittedly, the CMO of the SAIL is not sensitive to international price movements and there has been no feedback on price situation to the Department of Steel. Thus the Committee are left with an impression that there being no effective market intelligence, the relevant ingredient for decision-making is conspicuous by its absence. The Committee desire that this lacuna should be removed and the scheme of duty exemption reviewed forthwith.

BANSI LAL, *Chairman,*
Committee on Public Undertakings.

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