

# COMMITTEE ON PUBLIC UNDERTAKINGS (1978-79)

(SIXTH LOK SABHA)

## THIRTY-FIRST REPORT

Action Taken by Government on the Recommendations contained in the Eighty-ninth Report of the Committee on Public Undertakings (Fifth Lok Sabha)

On

Foreign Collaboration in Public Undertakings

Presented in Lok Sabha on 219 APR 1981



LOK SABHA SECRETARIAT  
NEW DELHI

March, 1979/Phalgun, 1901 (S)

Price : Rs. 6.00

## LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA SECRETARIAT PUBLICATIONS

### ANDHRA PRADESH

1. Andhra University General Co-operative Stores Ltd., Waltair (Visakhapatnam).

### BIHAR

2. M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar).

### GUJARAT

3. Vijay Stores, Station Road, Anard.

### MADHYA PRADESH

4. Modern Book House, Shiv Volas Palace, Indore City.

### MAHARASHTRA

5. M/s. Sunderdas Gianchand, 601, Girgaum Road, near Princess Street, Bombay-2.
6. The International Book House Pvt. 9, Ash Lane, Mahatma Gandhi Road, Bombay-1.
7. The International Book Service, Deccan Gymkhana, Poona-4.
8. The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.
9. M/s. Usha Book Depot, 585/A, Chira Bazar Khan House, Girgaum Road, Bombay-2.

10. M & J Services, Publishers, Representatives Accounts & Law Book Sellers, Bahri Road, Bombay-15.

11. Popular Book Depot, Dr. Bhadkamkar Road, Bombay-400001.

### mysore

12. M/s. Peoples Book House, Opp. Jaganmohan Palace, Mysore-1.

### UTTAR PRADESH

13. Law Book Company, Sardar Patel Marg, Allahabad-1.

14. Law Publishers, Sardar Patel Marg, P.B. No. 77, Allahabad—U.P.

### WEST BENGAL

15. Granthaloka, 5/1, Ambica Mookherjee Road, Belgharia, 24-Parganas.

16. W. Newman & Company Ltd., 3, Old Court House Street, Calcutta.

17. Mrs. Manimala, Buys & Sells, 128, Bow Bazar Street, Calcutta-12.

### DELHI

18. Jain Book Agency, Connaught Place, New Delhi.

19. M/s. Sat Narain & Sons, 3141, Mohd. Ali Bazar Mori Gate, Delhi.

## CONTENTS

	<b>PAGE</b>
<b>COMPOSITION OF THE COMMITTEE</b>	(iii)
<b>COMPOSITION OF THE SUB-COMMITTEE ON ACTION TAKEN</b>	(v)
<b>INTRODUCTION</b>	(vii)
I. Report . . . . .	1
II. Recommendations that have been accepted by Government . . . . .	13
III. Recommendations which the Committee do not desire to pursue in view of Government's reply . . . . .	84
IV. Recommendations in respect of which replies of Government have not been accepted by the Committee. . . . .	88
V. Recommendations in respect of which replies of Government are awaited . . . . .	89
<b>APPENDICES</b>	
I. Scrutiny and approval of agreements involving foreign collaboration by Public Undertakings. . . . .	93
II. Paper for the consideration of the CACI at its meeting on 27th July, 1976 . . . . .	120
III. Bureau of Public Enterprises O.M. No. 35/2/77-BPE/MM dated 8-8-1977 regarding study of production techniques in Japan. . . . .	126
IV. D. O. No. DS/NCST/23/75 dated 7-2-76 of Department of Science & Technology regarding setting up of in-house R & D facilities by Public Sector Undertakings . . . . .	128
V. Bureau of Public Enterprises O.M. No. 35/1/77-BPE/MM dated 12-5-1977. . . . .	130
VI. Bureau of Public Enterprises O. M. No. GL/015/77-BPE/MM dated 8-6-77 regarding scrutiny and approval of Detailed Project Reports. . . . .	132
VII. Bureau of Public Enterprises O. M. No. GL/024/77/BPE/MM dated 2-9-1977 regarding scrutiny and approval of investment proposals. . . . .	134
VIII. Ministry of Industry (Department of Industrial Development) O. M. No. FC.1(6)/76-CCC-Cell dated 16-10-1976, regarding Technical Evaluation Committee to evaluate imported technology etc. . . . .	135
IX. Ministry of Industry (Department of Industrial Development) O. M. No. 2(2)/76-CCC Unit dated 7-3-1977 regarding Technical Evaluation Committee to evaluate imported technology etc. . . . .	137
X. Analysis of the Action Taken by Government on the recommendations contained in the 89th Report of the Committee on Public Undertakings. (5th Lok Sabha) . . . . .	139

COMMITTEE ON PUBLIC UNDERTAKINGS

(1978-79)

CHAIRMAN

Shri Jyotirmoy Bosu

MEMBERS

2. Shri O. V. Alagesan
3. Shri Maganti Ankineedu
4. Shrimati Chandravati
5. Shri Tridib Chaudhuri
6. Shri Hitendra Desai
7. Shri Anant Ram Jaiswal
8. Shri L. L. Kapoor
9. Shri K. Lakkappa
10. Shri Dharmasinhbhai Patel
11. Shri Raghavji
12. Shri Padmacharan Samantasinhra
13. Shri Bhanu Kumar Shastri
14. Dr. Subramaniam Swamy
15. Shri Madhav Prasad Tripathi
16. Shri S. W. Dhabe
17. Shri K. N. Dhulap
18. Shri H. B. Mahida
19. Shri Murasoli Maran
20. Shri Era Sezhiyan
21. Shri Viren J. Shah
22. Shri Sultan Singh\*

SECRETARIAT

Shri H. G. Paranjpe—*Joint Secretary*

Shri T. R. Krishnamachari—*Chief Financial Committee Officer.*

Shri T. N. Khanna—*Senior Financial Committee Officer.*

---

\*Elected w.e.f. 26-12-1978 vice Shri Deorao Patil died.

## SUB-COMMITTEE ON ACTION TAKEN

Shri Jyotirmoy Bosu—*Chairman*  
Shri O. V. Alagesan—*Convenor*  
Shri Tridib Chaudhuri  
Shri Hitendra Desai  
Shri L. L. Kapoor  
Shri K. Lakkappa  
Shri Bhanu Kumar Shastri  
Dr. Subramaniam Swamy  
Shri K. N. Dhulap  
Shri Era Sezhiyan  
Shri Viren J. Shah

## INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this Thirty-first Report on Action Taken by Government on the recommendations contained in the Eighty-Ninth Report of the Committee on Public Undertakings (Fifth Lok Sabha) on Foreign Collaboration in Public Undertakings.

2. The Eighty Ninth Report of the Committee on Public Undertakings (1975-76) was presented to Lok Sabha on the 29th April, 1976. The replies of Government to recommendations contained in the Report were received in batches and the last batch was received in February, 1977. Further information called for on several points after scrutiny of the replies had also been received in batches and the last batch was received in May, 1978.

3. The replies were considered by the Sub-Committee on Action Taken of the Committee on Public Undertakings and this Report adopted by them at their sitting held on 15th March, 1979. The Report was finally adopted by the Committee on Public Undertakings on 19th March, 1979.

4. An analysis of the Action Taken by Government on the recommendations contained in the Report of the Committee is given in **Appendix X**.

NEW DELHI;

March 21, 1979

Phalguna 30, 1900 (S).

JYOTIRMOY BOSU.

*Chairman,*

*Committee on Public Undertakings.*

## CHAPTER I

### REPORT

This report of the Committee deals with the Action Taken by Government on the recommendations contained in the Eighty-ninth Report (Fifth Lok Sabha) on Foreign Collaboration in Public Undertakings which was presented to Lok Sabha on 29 April, 1976.

1.2. Action taken notes have been received from Government in respect of all the 91 recommendations contained in the said Report. These have been categorised as follows:—

**(i) Recommendations/observations that have been accepted by Government.**

Serial Nos. 1 to 8, 10 to 47, 49 and 51 to 91.

**(ii) Recommendations/observations which the Committee do not desire to pursue in view of Government's replies.**

Serial Nos. 9, 48 and 50 (3 recommendations).

1.3. The Committee note from the Action Taken notes received from the Bureau of Public Enterprises that the Government have accepted most of the recommendations made by them in their 89th Report on Foreign Collaboration in Public Undertakings and have issued revised guidelines (Appendix I) in May, 1977 incorporating therein the suggestions made by the Committee, in paras 2.38 to 2.48 of the Report.

1.4. The Committee will now deal with the action taken by Government on some of their recommendations.

#### *Study of advanced technology in Japan*

**Recommendation Serial No. 12 (Para 3.115-3.116)**

1.5. The Committee were given to understand that Japan had achieved a high rate of technology in a labour surplus situation by (a) restructuring production techniques, (b) confining technological development to most oligopolistic large enterprises and (c) successful adaptation of advanced technology by concerted R&D effort. It was also understood that in engineering industries, large enterprises performed assembly work while parts were manufactured by sub-contracting firms of medium and small size. In the case of process

industries raw materials were manufactured by large enterprises while conversion to finished products was done by medium and small manufacturers linked to respective large Corporation.

1.6. The Committee desired that Government should study in depth the latest trends in Japan so as to evolve the procedures for the selection of the best and most up-to-date technology in the public sector which would make for economic production at most competitive prices consistent with the national requirement of finding employment opportunities for the ever growing population.

1.7. The Bureau of Public Enterprises have assured in their replies that "the study indicated by the Committee would be undertaken." In May, 1978, the Bureau of Public Enterprises forwarded a copy of the Report of the Study Group constituted for the purpose without indicating the action taken by Government thereon.

1.8. The Committee note that the Study of absorption of high rate of technology in a labour surplus situation in Japan in relation to its application in India was completed by the Study Group in April, 1978. They desire that the results of the study and the action taken in the light thereof should be reported to the Committee at the earliest opportunity and reproduced in the Ministry's annual report without fail.

#### *Import of Repetitive Technology*

##### **Recommendation Serial No. 19 (Para 3.161)**

1.9. The Committee suggested that as provided for in the draft 5th Five Year Plan import of repetitive technology should be avoided and where import and assimilation had already taken place all possible measures should be taken to promote horizontal transfer of that technology to other enterprises.

1.10. The Committee also suggested that where for the same product collaborations had been made with different countries, it would be useful to make a comparative study of the technology and the cost of product under different collaborations so as to assess the comparative merit.

1.11. In their reply the Bureau of Public Enterprises have stated that the principle of avoiding repetitive import of technology is already incorporated in the existing guidelines on foreign collaboration and is kept constantly in view while approving collaboration proposals.

1.12. The Bureau have added that "one of the duties of the Technological Data Bank, which has been set up in the DGTD is to

make comparative study of various technologies with a view to ascertain the cost and merit."

1.13. The Committee have also been informed (June, 1977) that "DGTD have made a beginning in the direction of comparative study of various technologies to have an inter-unit comparison with reference to cost and merit. The results are yet to arrive at."

1.14. The Committee would like to be apprised of the results of the comparative study of various technologies which the DGTD is stated to have undertaken within 30 days (from date). This should also be reproduced in the Annual Report of the Ministry.

### *Consultancy Services*

#### **Recommendation Serial No. 22 (Para 3.178)**

1.15. The Committee noted that the Ministry of Industrial Development had not been able to indicate categorically the fields in which there was absence of consultancy organisations. They felt that a procedure should be evolved by which consultancy organisations in various fields might be compulsorily required to enlist themselves with the Ministry|DGTD. The Committee also desired that Government should in consultation with the Public Undertakings and national research organisations like NRDC, Department of Science and Technology, CSIR, etc. take steps to identify the specific areas in which consultancy was yet to be developed and consider whether the existing consultancy organisations could be strengthened for providing consultancy services in such fields.

1.16. In their reply, the Bureau of Public Enterprises have stated that arrangements exist already for the enlistment of consultancy organisations with the Department of Industrial Development. At the moment, however, this enlistment is not compulsory. So far 100 consultancy organisations have already enlisted themselves with the Department of Industrial Development. Whenever the consultancy organisations come up to Government for any help or assistance, they are advised to enlist themselves with the Ministry. The Bureau added that Government however, have taken note of the recommendations by the Committee.

1.17. The Committee feel it is a deplorable situation that there is no systematic registration of all the consultancy organisations in various fields with a view to inter alia identifying the specific areas in which consultancy is yet to be developed for necessary further action. They therefore stress that there should be compulsory enlistment of consultancy organisations with the Department of

**Industrial Development and the areas in which consultancy is yet to be developed should be identified soon.**

**Standardisation**

**Recommendation—Serial No. 28 (Para 3.204)**

1.18. The Committee noted that during the course of 20 years as different technologies had been obtained from a large number of countries, it would be necessary to evolve some standardisation and standard specifications. The Committee felt that the Technology Development Division of Directorate General of Technical Development could play an important role in bringing about standardisation and rationalisation of equipments and inputs so as to reduce dependence on imports and encourage full utilisation of installed capacity particularly in the public sector.

1.19. In their reply the Bureau of Public Enterprises have stated that the subject is complex but the role of Technology Development Division of DGTD in bringing about standardisation and rationalisation of equipment and input so as to reduce dependence on imports and encourage full utilisation of installed capacity, particularly in the public sector, is fully appreciated. Some of the actions taken in this direction are stated below:

- (a) Endeavour is made to exclude from technical package certain know-how or equipment for which capability has been developed or absorbed;
- (b) Wherever possible, import of design and drawings has been encouraged through R & D institutions/consultancy engineering firms which will lead to standardisation;
- (c) Mechanism of forward planning is intended to obtain or develop the technologies on centralised basis in selected areas and to give further impetus to horizontal transfer of technology after due regard to productivity aspects etc;
- (d) Reviews of norms of import of capital equipment, material etc. through collaboration which will give impetus to the capabilities developed in the country in the interim period. For instance, for caustic soda project, the foreign exchange component for the import of capital goods at Rs. 480 per ton has been reduced to less than Rs. 350 per tonne. This has resulted in substantial saving of foreign exchange.

1.20. It has also been stated that further steps in this direction include closer rapport and communication between consultancy and

design engineering firms, ISI and R & D which would give a further fillip to standardisation and standard specifications.

1.21. The Committee note that the subject is complex but the need for rationalisation and standardisation of equipments and inputs so as to ensure development of indigenous capabilities cannot be over-emphasised. The efforts in this direction made by DGTD should be intensified through a closer rapport with consultancy engineering firms/Institutes of Technology and the Design Engineering Firms. The results achieved should also be reflected in the Annual Reports of the Ministry.

*Measures for Organising and Providing Research and Development*

**Recommendation—Serial No. 32 (Paras 4.114-4.115)**

1.22. The Committee were informed that pursuant to the recommendations of the National Commission on Science and Technology, a Working Group under the Chairmanship of Dr. S. Vardarajan was set up in June, 1974 to suggest measures for organising and providing Research and Development in public sector. The terms of reference of the Group included suggestions of measures for establishing meaningful coordination between public sector enterprises and National laboratories. It had been stated that the question of setting up a Council for Research and Development in Public Sector would be examined after the Report of the Working Group was received. The Committee desired that the Working Group should expedite its Report. They also desired to be informed of the recommendations of the Working Group and the action taken in pursuance thereof.

1.23. The Bureau of Public Enterprises have stated in their reply that administrative Ministries are being requested to examine the working of the Development Councils for different industries in order to improve coordination between Public and Private Sectors in the matter of research and development. The Working Group has been requested to expedite its reports. The Bureau have assured that the recommendations of the group along with the action taken will be sent to the Lok Sabha Secretariat in due course.

1.24. In reply to further information called for it has been stated that the Working Group was expected to submit its report by 30th June, 1977. The Bureau informed on 12th December, 1977 that the Working Group has since finalised its report. In June, 1978, the Bureau forwarded a copy of the report of the Working Group without indicating any action taken thereon.

1.25. The Committee desire that action taken by Government on the recommendations of the Working Group set up to suggest

measures for organising and providing R & D in Public Sector should be brought to their notice.

**Recommendation—Serial No. 33 (Paras 4.116—4.118)**

1.26. The Committee recommended that research undertaken by the National Laboratories should have close relation to the needs of industry so that National Laboratories might see greater purpose and pressure in producing viable results and the process of know-how transfer was facilitated.

1.27. While accepting the recommendation, the Bureau of Public Enterprises have stated that "instructions will be issued to the research agencies drawing their attention to this recommendation and to ensure their involvement and more intimate contact with the problems of the industry."

1.28. The Committee also recommended that there should be regular programmes of exchange of personnel between the industry and research institutions as is being reported to be done in the case of Defence Undertakings and Defence Research Institutions and Cement Industry and Cement Research Institute.

1.29. While accepting this recommendation also, the Bureau have informed the Committee that this will be brought to the attention of scientific agencies for implementation.

1.30. The Committee would like to be informed about the details of the arrangements, institutional or other-wise, made for the greater involvement of the National Laboratories with the problems of the industries. The Committee suggest that the Bureau might undertake the publication of an information brochure highlighting the technical/technological facilities available with the National Laboratories and Research Institutes which could be made use of by the industries in solving their problems and the matter may be reviewed after every three years and report sent to the Committee.

**Expenditure on Research and Development**

**Recommendations—Serial Nos. 36-37 (Para, 4.119—4.121)**

1.31. The Committee desired that a study may be undertaken to assess the relative advantage of investment in R & D on a long term basis instead of importing technology from abroad at high costs. In this connection, the Committee cited the instance of Japan where R & D had been given the highest importance on account of which Japan had not only been able to indigenise the technology but also to improve and upgrade the know-how to improve the products and make their technology exportable.

1.32. The Committee were informed by the representatives of Department of Science and Technology that the overall expenditure on R & D in the public sector as percentage of turnover was only 0.6 per cent and it was expected to be about 1 per cent by the end of the Fifth Plan. The Committee understood that the ratio of R & D expenditure to turnover was very low in India. They were of the view that a stage had come where it should be possible for the industries themselves to mobilise the necessary resources for their R & D efforts in the overall national interest.

1.33. The Committee desired Government to ensure that adequate funds, say 3 to 5 per cent of turnover, were allocated for research and development. The Committee felt that if R & D activities were undertaken with determination and dedication, they would pay back manifold.

1.34. In their reply the Bureau have stated that Government is of the view that in the area of high investment a long term investment in research and development is generally desirable so that over a period, the necessary infrastructure for absorbing the imported technology is established. Funding for research and development is under review and a proposal for levying R & D cess has also reached an advanced stage. Even now, funds are allocated for R & D activities in several central agencies within the overall financial constraints of the Government. In addition to providing direct support to R & D from the central fund, alternative forms of supporting R & D activities in the industry have been given effect to, particularly, in the form of fiscal incentives.

1.35. The Bureau have further informed (June 1977) that "Government is engaged in drafting a legislation for levy of a general R & D cess on industries coming within the purview of the Industries (D&R) Act."

1.36. The Committee note that Government appreciate the Committee's view that a long-term investment in research and development is generally desirable in order to establish necessary infrastructure for absorbing the imported technology over a period. The Committee note that Government proposes to bring forward legislation for levy of a general R&D cess on industries coming within the purview of the Industries (D&R) Act. This is a step in the right direction. The Committee hope that the proposed measure would be brought to their notice expeditiously.

#### *Horizontal Transfer of Technology*

##### **Recommendation—Serial No. 47 (Para 5.72)**

1.37. The Committee pointed out that the over-riding consideration in transferring technology laterally should be the national in-

terest and not the interest of an individual unit. They recommended that Government might consider equipping themselves with powers, statutory as well as administrative, to make it obligatory on the part of recipient of foreign technology to transfer it to another Indian Party in cases where such a transfer was considered essential in public interest.

1.33. In reply, the Bureau of Public Enterprises have stated that several Departments of Government are involved in the implementation of this recommendation. Views of the concerned Ministries will have to be taken in formulating the necessary steps.

In reply to further information called for the Bureau informed in May, 1978, that as far as Public Enterprises are concerned this point is adequately covered in the Bureau of Public Enterprises guidelines issued vide GL|O12|BPE|MM dated 9-5-1977 wherein the importance of avoiding repetitive import of technology|knowhow for same or similar products or processes has to be kept in view. There should be no difficulty for the Government to ask the Public Enterprises to transfer the technology to any other Indian Party as and when considered necessary in public interest. In case of private sector, the private companies are asked to confirm at the time of submitting their applications for foreign collaboration that the foreign collaborator is agreeable to make available the technical knowhow|product design|engineering design to other Indian Parties, on terms and conditions as may be agreed to by the parties concerned, including the foreign collaborator and subject to the approval of the Government.

1.39. The Committee hope that in the light of consultation held with various concerned Ministries the Government would be in a position to equip themselves with statutory and administrative powers to secure transfer of foreign technology from one Indian party to another when such a transfer may be essential in public interest.

#### **Recommendation—Serial No. 49 (Paras 5.74-5.75)**

1.40. The Committee were informed that in certain cases, horizontal transfer of technology of the processes that were patented were not normally allowed without payment of royalty to the foreign collaborators. They suggested that Government should examine this question from legal and national point of view and see how there could be free flow of technical know-how, etc., patented as well as nonpatented, from one Indian Party to another so that repetitive import of the same or similar technology could be avoided in larger national interest.

1.41. The Bureau of Public Enterprises have stated that Government accepted the recommendation. They have added that the question will be examined further from the legal and national point of view.

1.42. In pursuance of this assurance, the Bureau have requested the Ministries|Departments of the Government of India "to do the needful as necessary."

1.43. The Committee would like the Bureau of Public Enterprises to coordinate action on this recommendation and inform the Committee of the result of examination of this issue of free flow of technical know-how etc. by all the Ministries|Departments and the final action taken in the matter.

#### *Fore Closure of Contract*

##### **Recommendation—Serial No. 77 (Paras 6.232-6.234)**

1.44. The Committee were of the view that it was in the interest of the undertaking that a clause regarding fore-closure of the contract in the event of the unsatisfactory performance by the collaborator might be suitably included in the collaboration agreements under specific conditions. The agreement might also include definite terms of settlement with the collaborator in cases of such premature termination so as to avoid any ambiguity in such an important matter. The Committee suggested that a standard clause as far as possible in this regard might be evolved and suitable guidelines issued to the undertakings.

1.45. In their reply, the Bureau of Public Enterprises have stated that guidelines have been issued to the Ministries|Public Undertakings that their should be a clause for premature termination of agreement in case where the work is found to be unsatisfactory or not suitable.

1.46. The Bureau have, however, added that "it is felt that it is difficult to evolve a standard clause because the terms and conditions would differ from case to case."

1.47. The Committee feel that it would be better for the Bureau of Public Enterprises to evolve a standard clause in regard to fore-closure of a contract for unsatisfactory performance by the collaborators for incorporation in the collaboration agreements so as to avoid any ambiguity in such an important matter. The Committee hope that the matter would be re-examined.

#### *Evaluation of collaboration agreements*

**Recommendation—Serial No. 91 (Paras 10.17-10.20)**

1.48. The Committee were informed that only the Reserve Bank of India had undertaken two comprehensive surveys about the working of the foreign collaboration arrangements in the country. While these had served a useful purpose in giving an overall view, the Committee felt that a detailed survey and analysis had to be carried out at the national, sectoral and unit level in order to learn from the experience of working of the foreign collaboration agreements with different collaborators and countries.

1.49. The Committee stressed that Government should devise suitable arrangements for evaluation of the foreign collaboration agreements on national, sectoral and unit basis with particular reference to the following considerations:—

- (i) The extent to which the terms of agreements have been fulfilled in letter and spirit and the readiness shown by the foreign collaborators to resolve unanticipated problems and to adhere to the time schedule for delivery of drawings, designs, equipments etc.
- (ii) Whether the production capacity has been developed as per the prescribed time frame upto the installed level and whether the warranted performance has been sustained over a period.
- (iii) Quality of service after installation with particular reference to the spirit of co-operation and helpfulness in resolving problems of operation and maintenance and sharing knowledge about advances in the relevant field of technology and know-how which effect reductions in cost.
- (iv) Concrete help given in import substitution with particular reference to raw materials, machinery and equipment.
- (v) Quality and quantity of production with reference to figures mentioned in the project report.
- (vi) Acceptability of the product by the users in India.
- (vii) Potentiality for export and the extent to which it has been realised.
- (viii) Assistance given in setting up maintenance schedules and in arranging supply of spare parts on assured basis and at competitive prices and management of inventories.
- (ix) Setting up of a management information system in the interest of effective control over the unit.
- (x) Setting up of the Planning, Research and Development Division and the concrete help given in the absorption of

technology and know-how and making it self-reliant, and self-generating.

1.50. The Committee suggested that while institutional arrangements might be made for critical study and appraisal of foreign collaboration agreements which had already run their course, such monitoring should be done in future concurrently so as to derive meaningful information and data for use while negotiating and finalising foreign agreements.

1.51. The Committee also suggested that the information on the above mentioned points and other related matters might be suitably brought on the data-bank under DGTD for providing ready reference and guidance in the matter of selection of foreign collaborators and technology. The Committee attached great importance to the above recommendations and desired to be informed of the concrete measures taken by the Government in pursuance thereof.

1.52. The Bureau of Public Enterprises, in their reply, have stated that a technology exercise has already been undertaken by DGTD in respect of units having on-going foreign collaborations to study the advantages taken of such collaborations, attempts made at absorption of technology and know-how obtained, the adaptations, and improvements effected etc. which would thereby help to provide a shelf of information on:—

- (a) Possibilities of horizontal transfer of technology and to avoid further import particularly in areas where multiple import of technology has been previously permitted.
- (b) Possibilities of export of technology industry-wise and unit-wise where absorption has been effective.
- (c) Cost comparisons of various technologies in end-product pricing and other advantages in export generation, competitive strengths etc. the problem areas in production and exports due to technology in-puts and which will yield further-useful data on foreign collaborations which may be of interest/use in plugging the loop-holes on acquisition, agreements, execution, choice etc.
- (d) The endeavour of Indian parties in absorption, adaptation and improvements to avoid repetitive imports for same products, viz., R & D effort, help by collaborators, indigenisation, use of materials training of personnel, quality, etc.
- (e) Identification of units which can take role of lead R & D Units for further work on centralised basis with cooperation of other organisation on areas of gaps/further improvements in light of their competence facilities etc. (to be co-

related with the work of Development Councils(Panels) on their coupling at an early stage with import of technology; and

(f) To study strengths and weaknesses of indigenous technology where transferred commercialised under commercialisation, from the technical, transference, techno-economic aspects which will provide guidance to NRDC, R & D, Department of Science and Technology|Consulting firms through coordinating Committee.

1.53. The Bureau have added that dialogues have been started with the industry from the month of August, 1976 and detailed in-put information will start flowing in from the beginning of October leading to detailed analysis. The dialogue has been completed in respect of following industries:—

(a) Industrial Machinery

(Sugar Mill Machinery, Cement Mill Machinery, Boilers, Burners, Pulp and Paper Machinery, Mining Machinery, Steel Plant Equipment, Chemical Plant and Equipment, Conveyors, Metallurgical Machinery, Gears, Rayon and Synthetic Fibre Plants, Airseparation Plant, Dairy Machinery, Spray Drying Plants, Weighing Machinery);

- (b) Automobile and Automobile Ancillary;
- (c) Welding Electrodes;
- (d) Mild Steel Welded Pipes and Tubes;
- (e) Seamless Steel Tubes;
- (f) Tubular Structural and Fabricated Pipes;
- (g) Metallic Flexible Tubes;
- (h) Dyes.

1.54. The Committee hope that the technology exercise which has already been undertaken by the Directorate General Technical Development will result in a meaningful evaluation of the foreign collaboration agreements on national, sectoral and unit basis with particular reference to the considerations outlined in their recommendation. They would like that the results of evaluation of the foreign collaboration agreements may be brought to the notice of the Committee at the earliest opportunity and also reflected in the Annual Report of the Ministry.

## CHAPTER II

### RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation (Sl. No. 1, para 1.29 to 1.35)

The Committee find that there had not been any hard and fast rule in regard to permitting collaboration with equity participation in national interest, till 1966 when certain restrictions were imposed in regard to foreign collaborations both in capital participation and in technology import. Though, the broad policies as such have been enunciated in the various Resolutions and Plan documents, no detailed guidelines were issued by Government from time to time in regard to foreign collaboration till 1969. The Fifth Five Year Plan documents, however, has laid down the broad principles in regard to foreign collaboration and also certain guidelines therefor. The Committee have dealt with these aspects in the subsequent chapters of the Report.

The Committee recommend that a careful and methodical watch should be kept on the actual working of the Guiding Principles so that these could be modified as necessary to subserve the best developmental interests of the country.

#### Reply of Government

The actual working of the guiding principles is kept under careful and constant watch by the Foreign Investment Board. In the light of experience, Government review the guiding principles from time to time with a view to modify and to improve them.

[Ministry of Finance (Bureau of Public Enterprises) O. M.  
No. 35/1/76-BPE/MM, dated 29th November, 1976]

#### Recommendation (Serial No. 2 Paragraph 2.38 to 2.48)

The Committee note that Government issued comprehensive guidelines in January, 1969 on the general policy and procedure for handling proposals for foreign collaboration for the guidance of Ministries and technical authorities.

The Committee also note that the Department of Industrial Development have issued general guidelines again in 1974-75 indicating the principles to be followed in negotiating foreign collaboration agreements to ensure that the proposals followed the policy of Govt.

The Committee are informed that though the Public Undertakings have not experienced any major difficulty in the practical working of the guidelines, some public undertakings have come across problems in regard to payment of Indian taxes by the collaborators, sub-licensing exports of products, arbitration, period of agreement, provision of penalty clause and payment of royalty. The Committee have dealt with these specific problems in separate sections of this report.

The Committee are informed that any specific difficulties brought to the administrative Ministries by the public undertakings have been dealt with and resolved and there is considerable flexibility in the guidelines which are treated only a guidelines' and not as rules.

The Committee note that the Pugwash Conference held in Madras in January, 1976 had finalised an outline of international code of conduct for transfer of technology which takes largely into account the discussions held on the subject earlier under the auspices of the UNCTAD.

It is understood that UNCTAD are arranging to bring up the draft code of conduct for transfer of technology particularly to developing countries, at a conference scheduled to meet at Nairobi in May, 1976.

The Committee would like Government to review the guidelines in the light of the latest developments so as to incorporate features which would subserve the national interest of accelerating development and absorption of most suited technology on acceptable terms and ultimately enable the country to stand up on its own indigenous know-how.

#### **Reply of Government**

The guidelines were reviewed recently by the Department of Industrial Development. It is the declared policy of the Government to import technology most suited to our conditions on acceptable terms and to encourage growth of indigenous technology with a view to enable the country to be self-reliant by developing the indigenous know-how.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 29th November, 1976.]

**Recommendation (Serial No. 3 Paragraph 2.69)**

The Committee note that with a view to minimising procedural delays in disposal of applications relating to foreign investment and foreign collaboration, the FIB was set up in 1969 and charged with the responsibility of expeditious disposal of cases. The Committee are also informed that a special procedural system has been introduced w.e.f. 1st November, 1973 for processing of applications for industrial licence and foreign collaboration. Although it has been claimed that since the introduction of the new procedure, delays have been reduced, substantially, the Committee regret to observe that during 1974 out of 16 cases of public undertakings which were referred to IFIB 10 were cleared within 120 days and in 1975 out of 12 cases referred to 8 were cleared within 120 days. The Committee are not convinced of the reasons for the delay in the disposal of the remaining applications and feel that with a more determined effort it should have been possible to dispose them of within the prescribed time schedule.

The Committee feel that in the case of public undertakings there should be no difficulty in obtaining the necessary clarifications or holding discussions with the Chief Executives of the public undertakings and/or the senior officers of the administrative Ministries concerned so as to resolve all matters and issue final orders on the applications for foreign collaboration well within the prescribed period of 120 days. The Committee need hardly point out that speedy processing of applications for foreign collaboration would help to clinch the foreign collaboration terms and remove one major uncertainty in the time schedule for implementation of planned projects.

**Reply of Government**

Government have noted the observations of the Committee and have already addressed the administrative Ministries and concerned technical authorities urging that they should furnish the requisite comments on all foreign collaboration proposals referred to them within the prescribed period and that they should give sufficient reasons to the FIB Secretariat if they have not been able to finalise their comments and to adhere to the time schedule. The Chairman, FIB attaches great importance to this aspect and takes up the matter of delays personally with the authorities concerned. The observations of the Committee will also be brought to the notice of all concerned.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 28th January, 1977.]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

(LSS No. 25-PU/76/ dated 24-2-77 & 5-3-77)

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM. dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix—I).

[BPE No. 35/1/77-BPE/MM dated 1st June, 1977 ]

**Recommendation (S. No. 4 Paragraphs, 3.46 to 3.49)**

The Committee agree with the Ministry of Finance (Bureau of Public Enterprises) that foreign collaboration should be in the field of high priority and areas where technical know-how, materials and talents are not available indigenously and where the import of technology is absolutely necessary and the same should be a proven process.

The Committee feel that it is important that Government/Undertaking should be clear about the exact nature and type of technology required, the sources of availability of such technology and the resources available for the purpose and should have knowledge about the technology and the collaborator, in order to secure the best terms in public interest.

**Reply of Government**

The Recommendation is accepted. Action has been initiated to bring the technology data bank into action which would provide the information about the technology and the collaborator. This will be brought to the notice of all concerned.

[Ministry of Finance (BPE) O.M. No. 35/1/76-BPE/MM dated 2-2-1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

(LSS No. 25-PU/76 dated 24-4-77 & 5-3-77)

### **Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix-I).

[BPE No. 35/1/77-BPE/MM dated 1st June, 1977]

### **Recommendation (Serial No. 5 Paragraphs 3.50 and 3.51)**

The Committee are also informed that it has been decided that a technology cell and a technical data bank should be established in the office of DGTD for the technical examination and evaluation of the competitive technologies and advising the entrepreneur of the correct cost of technology.

The Committee recommend that the proposed Data Bank should be brought into action at a very early date stress that the Data Bank should not only have information about the latest advancements in technology and the collaborators in foreign countries, but also maintain liaison with the CSIR, the Deptt. of Science and Technology and other leading research and Development institutions in the country etc. so as to incorporate at one place, upto date information about technology/collaborators available within the country and outside.

### **Recommendation (Serial No. 25 Paragraph 3.201)**

The Committee have already given their recommendations in regard to data Bank in an earlier chapter of the report. The Committee would like that the data bank should be set up expeditiously and should provide exhaustive information about the technologies, their development and improvements, the sources etc. so that the information may be useful for selection of the appropriate technology in any particular field of industry.

### **Reply of Government**

Actions have been initiated to bring the Technology Data Bank into action as early as possible. These include claims (and verification) of indigenous technology development absorption of imported technology, trends in technological developments, gaps in identification and other features.

Liasion with CSIR R&D Institutions, Deptt. of Science and Technology, and NRDC has also been strenthened through the coordination meetings and other inter-actions. A 'paper' on further strengthening of efforts in industrial R&D in the country has been

prepared by the DGTD in consultation with CSIR and Department of Science and Technology.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 20th October, 1976]

**Further information called for by the Committee**

Please furnish a copy of the paper on further strengthening of efforts in industrial research and development.

[LSS O.M. No. 25-PU/76 dated 16th Nov., 76]

**Further reply of the Government**

One copy of the paper on further strengthening of efforts in industrial research and development is sent herewith. (vide Appendix II)

[O.M. No. 35/1/77-BPE(MM) dated 30th Dec. 1976]

**Recommendation (Sl. No. 6 Paras 3.52 to 3.55)**

The Committee note that, according to Government undertakings/ administrative Ministries have evolved elaborate methodology to make sure that the technology which is best suited to requirements and is upto date and proven in the field is chosen. The Committee, however, find that in the recent past there have been instances where the technology chosen e.g., in the case of manufacture of photo films and cross-bar telephone exchanges, was later on found to suffer from several deficiencies with basically arose from the fact that the standing of the collaborator and his capability in the field had not been critically evaluated nor the suitability of the technology for Indian conditions critically adjudged.

The Committee feel that in making the choice of technology care should be taken to safeguard against obsolescence and incompatibility to ensure that the technology selected is not only most modern but appropriate to the Indian conditions. The technology should be correlated with the locally available inputs and with the present projected demands as co-relation with the demand projection is important in determining the scale of production. The Committee agree that there should be high degree of selectivity in the case of engineering industry where the country is reported to have developed a technological base and expertise for manufacture of sophisticated equipment and stress that Government should scrutinise in greater depth the need for any foreign collaboration in this sector after care-fully

assessing the existing capacity for developing second generation plants.

**Reply of Government**

The recommendation is accepted. Instructions/Guidelines would be issued to the Ministries/Public Enterprises.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 2nd February, 1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued *vide* O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix-I).

[BPE No. 35/1/77-BPE/MM dated 1st June, 1977]

**Recommendation (Sl. No. 7 Para 3.56)**

The Committee have elsewhere in this Chapter recommended that a public sector undertaking should be nominated by Government in each sector of the industry to act as the leader in the matter of processing and crystallising proposals for selection of best foreign technology. Where a unit is coming up in an area where no public sector undertaking exists, the Government may consider the question of nominating a suitable consulting agency such as Engineers India, NIDC, etc., to act as a 'Nodal' agency for processing such proposals. This idea underlying this recommendation is that the proposals should, *ab initio*, be drawn up with the association of the most knowledgeable unit in the public sector so as to facilitate the task of Foreign Investment Board to scrutinise and approve the application for foreign collaboration.

**Reply of Government**

It has already been stated in the reply to recommendation No. 9 that an inter-disciplinary group has been established by the Government to screen and evaluate the technology and to make a joint

recommendation to the Foreign Investment Board. The advise will be sought from public sector agencies whenever necessary.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 2nd February, 77]

**Recommendation (Sl. No. 8, Para 3.57)**

The Committee recall that in the public sector, large capacity for manufacturing processing units has already been built up as for example, the Heavy Engineering Corporation, MAMCO, BHPV who have the capacity to manufacture steel plants, large scale Coal mines machinery and port handling equipment, machinery and equipment for petro-chemical and fertilizer industries etc. There are, however, certain areas where we are dependant on imported machinery and equipment which could be manufactured by the large manufacturing undertakings in the public sector.

The Committee suggest that there should be meaningful coordination between these large machines manufacturing units and the processing undertakings so that indigenous manufacture of machinery and equipment undertaken with the aid of foreign technology and know-how where absolutely essential could be taken up in an integrated manner so as to meet satisfactorily the requirements of the processing industry as well as the objectives of indigenisation.

**Reply of Government**

The recommendation is accepted. Guidelines have been issued to ensure maximum indigenous participation in design manufacture vide O.M. No. 35/1/78-BPE/MM dated 14th Nov. 74.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 2nd February, 77]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix-I).

[BPE No. 35/1/77-BPE/MM dated 1st June, 1977]

**Recommendation (Serial No. 10, Paragraph 3.97)**

The Committee note that the basic requirement for availability of information regarding foreign technologies/collaborators is now to be met by the Data Bank which is being set up. The Committee agree that it may not be necessary to have a central body or a corporation as the main agency for screening, evaluating and recommending appropriate technology as no single agency how so ever competent it may be, can claim expertise in all types of technologies for various types of industries and in the opinion of the Committee, creation of a new agency will only add to the problems of coordination. The Committee need hardly stress that the screening function should not only include technical evaluation and investigation but also evaluation of financial implications and economics of the project.

**Reply of Government**

Evaluation of financial implications and economies of the project aside from technical evaluation and investigation is already an important part of the responsibility of the administrative Ministry and the Foreign Investment Board of the Project Approval Board while screening foreign collaboration proposals.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 29th November, 1976]

**Recommendation (Serial No. 11, Paragraph 3.114)**

The Committee feel that it is preferable to go in for labour intensive technology under the conditions obtaining in India. While there may be some force in the argument that in the interest of competing with international organisations it may not be desirable to go in for labour intensive technology in the case purely export-oriented industries, the Committee are of the view that, even in such cases labour intensive technology should not be ruled out and in fact may be preferred provided the quality and the prices are competitive and the manufacturing process would not expose the workers to avoidable health hazards.

**Reply of Government**

Government's policy on foreign collaboration is already highly selective. Appropriateness of technology, including its labour intensive character, to suit our conditions is always kept in view while approving foreign collaboration proposals.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 29th November, 1976]

**Recommendation (Serial No. 12 Paragraph 3.115 to 3.116)**

The Committee are given to understand that Japan has achieved a high rate of technology in a labour surplus situation by (a) restructuring production techniques (b) confining technological development to most oligopolistic large enterprises and (c) successful adaptation of advanced technology by concerted R&D efforts. It is also understood that in engineering industries, large enterprises perform assembly work while parts are manufactured by sub-contracting firms of medium and small size. In the case of process industries raw materials are manufactured by large enterprises while conversion to finished products is done by medium and small manufacturers linked to respective large Corporations.

The Committee would like Government to study in depth the latest trends in Japan so as to evolve the procedures for the selection of the best and most upto date technology in the public sector which would make for economic production at most competitive prices consistent with the national requirement of finding employment opportunities for our growing population.

**Reply of Government**

The study indicated by the Committee would be undertaken.

[Ministry of Finance (Bureau of Public Enterprises)]

O.M. No. 35|1|76-BPE| MM dated 28-1-77]

**Further Information Called for by the Committee**

Please indicate whether the proposed study has been undertaken and if so, when it is likely to be completed.

(L.S.S.O.M. No. 25-PU|76 dated 24th February, 1977)

**Further Reply of Government**

A study Group has been constituted by the Government vide O.M. No. 25|2|77-BPE (MM) dated 8th August, 1977. (Vide Appendix-III)

[BPE O.M. No. 35|1|77-BPE (MM) dated 12th August, 1977]

In May, 1978, Bureau of Public Enterprises forwarded a copy of the Report of the Study Group.

[BPE O.M. No. 35|1|77-BPE (MM) dated May, 1978]

**Comments of the Committee**

(Please see paragraphs 1.5 to 1.8 of Chapter-I of the Report).

**Recommendation (Serial No. 13, Paragraph 3.127)**

Since India has already built up a very competent technological base in a large number of sectors what may be required is know-how

and technology in specified fields. The Committee recommend that Government should on the basis of best advice available in the country consider as to what type of technology|know-how should be imported and from where. The Committee need hardly emphasise that the technology obtained should be up-to-date, reliable, proven and be capable of economic production.

#### **Reply of Government**

The Technical Departments|Agencies while scrutinising the proposals make an independent assessment of the nature and quality of the technology. Wherever necessary a Technical Committee of experts is set up on ad-hoc basis by the Foreign Investment Board to scrutinise the proposals in depth. In the existing form for foreign collaboration applications, the entrepreneur has to indicate the steps taken to explore the alternative sources of technology and evidence has to be furnished that the best available technology is being obtained at the most reasonable terms. It has been further decided to establish a Technology Cell and Data Bank in the DGTB for techno-economic evaluation of the competitive bids and advising entrepreneurs on the availability of correct cost of the technology. These measures would ensure that the technology to be imported is upto-date, reliable proven and capable of economic production.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35|1|76-BPE|MM dated 29th November, 1976]

#### **Recommendation (Serial No. 14, Paragraph 3.128)**

The Committee would stress that one time purchase of technology would serve the purpose only, if it is supported by a strong R&D base for assimilating, updating and transfer of technology. The Committee also feel that it is essential that provision should be included in the collaboration agreements requiring the collaborator to pass on any subsequent modifications and improvement in technologies of Processes and products.

#### **Reply of Government**

One time purchase is resorted to where the technology is not likely to become obsolete in the near future, and a standard condition is imposed that party importing the technology will set up adequate R&D facilities to assimilate and improve imported technology.

As far as, passing on of subsequent modifications and improvements are concerned instructions/guidelines have already been

issued to the Ministries|Public Enterprises by BPE vide O.M. No. 35(1)|73-BPE|MM dated 14th November, 1974 (para 4(b) for appropriate action).

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35|1|76-BPE|MM dated 28th January 1977]

**Recommendation (Serial No. 15, Paragraph 3.129)**

The Committee recommend that it should be made obligatory on the part of the Undertakings to keep a careful watch on the improvements|developments in technology|know-how taking place elsewhere so as to avail of the facilities through the collaboration agreement.

**Reply of Government**

This can be made applicable only to the improvements in technology of the concerned collaborator. Guidelines already issued include a provision that the improvements effected by collaborators to the designs processes|equipments supplied by them under the agreement would be made available to the contracting Indian Party. Many agreements for foreign collaboration already include such a provision. This cannot be made applicable to any development outside the purview of the collaborator.

[Ministry of Finance (BPE) O.M. No. 35|1|76 dt. 2-2-1977]

**Further Information Called for by the Committee**

“The Committee recommend that it should be made obligatory on the part of the Undertakings to keep a careful watch on the improvements|developments in technology|know-how taking place elsewhere so as to avail of the facilities through the collaboration agreement.”

Please state the steps taken by Government in this regard.

[LSS No. 25-PU|76 dt. 24-2-1977]

**Further Reply of the Government**

Guidelines have been issued to the Ministries|Public Enterprises to take action accordingly vide BPE's O.M. No. GL|012|BPE|MM, dated 9th May, 1977. Para 1(d) refers (Appendix I).

[BPE No. 35|1|77-BPE/MM dated 1st June, 1977]

**Recommendation (Serial No. 16, Paragraph 3.140 to 3.141)**

The Committee are of the view that packaged import of technology which combines product design, process know-how manufacturing techniques, plant design and engineering, training, etc., as one deal should be discouraged as it is in the nature of 'turn-key' project, and import of technology should be restricted to only those area where indigenous technology is not available or where high degree of sophistication not hitherto practised in the country is called for in a particular field. Technology imported should also be such as could be utilised in the best interests of country without any restriction.

**Reply of Government**

The recommendation is accepted. It is, however, submitted that the existing screening procedure take care of the views of the Committee which are scrupulously followed while examining the proposals for foreign collaboration.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35|1|76-BPE|MM dated 29th November, 1976]

**Recommendation (Serial Nos. 17, 18 & 19, Paragraphs 3.157 to 3.161)**  
**Recommendation No. 17**

The Committee are informed by the Ministry of Industrial Development that in scrutinising foreign collaboration proposals, the Technical Departments/agencies ensure that repetitive import of technology is avoided to the extent possible. The principle of avoiding repetitive imports has been incorporated in the guidelines.

The Committee find that during the last 5 years in as many as 15 cases Government allowed foreign collaboration by private parties even when the technology or know-how was available with Public Undertakings due to export obligations or contractual constraints or technology not being absorbed completed by the undertaking.

**Recommendation No. 18**

The Committee feel that repetitive import of technology should be avoided except where it is not possible to sub-liscence the technology, because of restrictive provision in the collaboration agreements. The undertakings should take steps through their Research and

Development Cells to absorb the technology within shortest possible time, adopt it to the Indian conditions and improve the same so that it is fully abreast of the latest development in the field, and be in a position to make horizontal transfer of the technology to other undertakings in public interest. Where it is considered necessary to go in for a different process technology because of the fast developments in the field, a careful cost-benefit analysis of the import of such technology should be made before a decision to import a different technology is taken. The Committee feel that it should be possible to avoid such cases if only the Research and Development Cells of the industries keep themselves abreast of the development in technologies taking place elsewhere in the industry and make improvements in the process technology already imported. Till this is achieved, even if import of improved process technology is to be allowed, it should be subject to the condition that production capacity could lead to a healthy competition with the existing unit and not to its closure.

#### **Recommendation No. 19**

The Committee also suggest that as provided for in the draft 5th Five Year Plan import of repetitive technology should be avoided and where import and assimilation has already taken place all possible measures including appropriate incentives should be taken to promote horizontal transfer of that technology to other enterprises which wish to make the product concerned. The Committee also expect that keeping this in view Government will take proper measures to avoid repetitive import of technology or know-how.

Where for the same product collaborations have been made with different countries, it would be useful to make a comparative study of the technology and the cost of product under different collaborations so as to assess the comparative merit.

#### **Reply of Government**

The principle of avoiding repetitive import of technology is already incorporated in the existing guidelines for foreign collaboration and is kept constantly in view while approving collaboration proposals. While scrutinising foreign collaboration proposals, the technical department or agencies always ensure that repetitive import of technology is avoided to the extent possible.

As far as the question of appropriate incentive for promotion of horizontal transfer of technology is concerned, it may be stated that under the existing income tax laws, 40 per cent of the earnings in terms of lumpsum, royalty, etc. from horizontal transfer of technology is exempted from income tax.

One of the duties of the Technology Data Bank, which has been set up in the DGTD is to make comparative study of various technologies with a view to ascertain the cost and the merit.

However, Government feel that it may be necessary to import Technical Know-how a second time in the following cases:—

- (i) Where a horizontal transfer of technology is not possible as the technical know-how has been obtained on a non-exclusive basis.
- (ii) In certain fields like chemicals and petro-chemicals, the rate of obsolescence of technology is very fast and it may be advantageous to import improved technology; otherwise Indian goods may not be competitive enough in international markets and this would be particularly true of export oriented units.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35|1|76-BPE|MM dated 28th January 1977]

#### Further Reply of the Government

"Please indicate if any comparative study of Technology had been undertaken by Government so far and if so, the results thereof. It may please be clarified as to how it is ensured that in cases of import of improved process of Technology, the production leads to healthy competition with existing unit rather than its closure."

[LSS O.M. No. 25-PU|76 dated 31-3-1977]

#### Further Information Called for by the Committee

DGTD have made a beginning in the direction of comparative study of various technologies to have an inter-unit comparison with reference to cost & merit. The results are yet to be arrived at. These would be communicated as soon as these are available.

Further, to ensure that the import of the improved process technology should lead to healthy competition with existing unit

rather than its closure, guidelines have been issued to the Ministries/Public Enterprises to take suitable action. B.P.E. O.M. No. GL/012/BPE/MM, dated 9th May, 1977. Para 1(b) refers. (Vide Appendix—I).

[BPE No. 35/1/77-BPE/MM dated 1st June, 1977]

### **Comments of the Committee**

(Please see Paragraphs 1.9 to 1.14 of Chapter I of the Report).

#### **Recommendation (Serial No. 20, Paragraph 3.162)**

The Committee also suggest that the International Technical Transfer Centre proposed to be set up may consider the problem of lateral transfer of already imported technology which may or may not have further developed and redesigned in India and evolve proper measures to stop repetitive import of know-how for the same product or process.

#### **Reply of Government**

The question of lateral transfer of technology already imported would normally be an area of activity of the proposed regional centres for technology transfer. The suggestion of the Committee would be conveyed to the Economic & Social Council for Asia & Pacific (ESCAP) Authorities who are the executive agency for this Centre.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 29th January, 1977]

#### **Recommendation (Serial No. 21, Paragraphs 3.165 to 3.167)**

The Committee regret to observe that the recommendation of the Committee on Public Undertakings in this regard has not been fully implemented in spite of Government having accepted the recommendation. The Committee reiterate their recommendation in their earlier Report on Management and Administration of Public Undertakings (13th Report, 3rd Lok Sabha-Paragraph 84) and stress that when public undertakings go in for foreign collaboration, they should ask the collaborators to make provision or give the know-how about establishment of suitable auxiliary industries.

#### **Reply of Government**

Instructions have been issued to all the Ministries/public enterprises vide BPE's circular O.M. No. 35/1/76-BPE/MM dated 9-8-1976

that whenever they go in for foreign collaboration they may ask the collaborators to make provision or to give know-how about establishment of suitable auxiliary industries

However, it is felt that provision regarding establishment of suitable auxiliary industries may not be necessary if the collaborator either does not have the know-how or technology for auxiliary industries or some other party has better technology to offer.

[Ministry of Finance (Bureau of Public Enterprises) O. M. No. 351/76-BPE (MM) dated the 28th January, 1977.]

**Recommendation (Serial No. 22, Paragraph 3.178)**

The Committee are surprised to note that the Ministry of Industrial Development has not been able to indicate categorically the fields in which there is absence of consultancy organisation. The Committee feel that a procedure should be evolved by which consultancy organisation in various fields may be compulsorily required to enlist themselves with the Ministry|DGTD. The Committee would also like that Government should, in consultation with the Public Undertakings and national research organisations like NRDC, Department of Science and Technology, CSIR etc. take steps to identify the specific areas in which consultancy is yet to be developed and consider whether the existing consultancy organisations could be strengthened for providing consultancy services in such fields.

**Reply of Government**

Arrangements exist already for the enlistment of consultancy organisations with Department of Industrial Development. At the moment, however, this enlistment is not compulsory. So far 100 consultancy organisations have already enlisted themselves with the Department of Industrial Development. Whenever the consultancy organisations come up to Government for any help or assistance, they are advised to enlist themselves with the Ministry. Government, however, take note of the recommendations by the Committee.

[Ministry of Finance (Bureau of Public Enterprises) O. M. No. 351/76/BPE (MM) dated 29th November, 1976]

**Comments of the Committee**

(Please see Paragraphs, 1.15 to 1.17 of Chapter I of the Report)

**Recommendation (Serial No. 23 Paragraph 3.197 and 3.198)**

The Committee would like that a case study of the applications, the disposal of which have exceeded the 3 months limit may be made

to see how far the delays in these cases could have been avoided with a view to taking suitable remedial measures. The Committee need hardly stress the importance of speedy and timely processing of applications for foreign collaboration by Public Undertakings. The Committee suggest that all matters requiring clarification during the consideration of applications should be arranged to be settled by holding discussions with the Public Undertakings and administrative Ministries in the interest of expeditious disposal of applications.

**Recommendation (Serial No. 24, Paragraph 3.199)**

The Committee recommended that DGTD as a technical authority should act more as a developmental agency rather than as a regulatory one and suggest alternative proposals for foreign collaboration wherever necessary after discussion with the Public Undertakings.

**Reply of Government**

The DGTD have stipulated a time period of 30 days for technical scrutiny and recommendations on foreign collaboration applications. The delay in disposal of applications beyond this time frame have been analysed and the chief factors which emerged leading to such delays are as follows:—

- (a) The party when asked for technical or other clarifications themselves requested for more time;
- (b) The need for clarification arose on such issues as proposed collaborator's strength, specific details of products or ranges proposed, technology and techno-economic aspects;
- (c) Failure of the parties to provide information in time; and
- (d) Within the organisation due to peak load activities and other factors.

A number of actions have been taken by DGTD to shade the regulatory functions which otherwise are taking lot of time of officers in the organisation. To illustrate, through the system of automatic licensing introduced, the DGTD officers are now not concerned with applications for raw materials (except for supplementary licensing and spare parts). As a result, the officers in the organisation of DGTD are able to devote more time to developmental activities. Applications are now disposed of in time.

Through the Guidelines for Industries 1976-77, the parties-both in public and private sector-have been advised to indicate precisely

the information, the lack of which was previously contributing to delays in disposal.

It has also been decided that in such cases where there is a request from the party for more time, the application can be treated as closed by DGTD and re-opened on information being provided by the parties.

A regular review of these will be undertaken.

[Ministry of Finance (Bureau of Public Enterprises) O. M. No. 35/1/76-BPE(MM) dated the 20th October, 1976]

**Recommendation (Serial No. 26, Paragraph 3.202)**

The Committee are also informed that a technological division has been formed in the DGTD to develop a meaningful coordination between DGTD, CSIR, NRDC, Department of Science and Technology and other leading institutions and other associations. It is stated that effort of this Division is to try and bear a total technological approach consistent with the objectives of self-reliance in technology. As a necessary back up to this division, collection, consultation and dissemination of technical and industrial data is also to be done through the Data Bank in the DGTD.

**Reply of Government**

**Noted**

[Ministry of Finance (Bureau of Public Enterprises) O. M. No. 35/1/76-BPE(MM) dated the 20th October, 1976]

**Recommendation (Serial No. 27, Paragraph 3.203)**

The Committee recommend that the DGTD should identify the specific areas of importance where foreign technology is being imported by public undertakings and suggest measures to attain self-reliance in consultation with public undertakings research institutions concerned, etc. The term 'Importance' may be construed to main areas which are of sensitive nature from the point of view of security or where large outgo of foreign exchange is involved.

**Reply of Government**

Latest analysis of on-going foreign collaborations made by DGTD reveals that nearly 70 per cent of these are in the engineering fields and balance 30 per cent in the non-engineering. A further analysis of collaborations reveal that major gaps in technology in the engineering field are in machine tools, industrial machinery, electrical equipment and transportation equipments. Attention to these gaps

has been focussed through coordinated exercises initiated by DGTD in association with CSIR, Department of Science and Technology, Development Councils, Association of Industry and other expert bodies, who are engaged in framing sector wise long range technology plans. The public sector units, design and consultancy organisations etc. are represented in the Development Councils/expert bodies.

The Development Council on Heavy Electrical Industry have constituted a number of specialised panels associating industry, DGTD, CSIR, Department of Science & Technology, engineering firms etc. and have formulated broad framework of technology plans in several areas such as transformers, electric motors, switch gears, transmission lines etc., Development Council on Machine Tools in association with HMT and CMTI, and Development Council on Automobile and Automobile Ancillary are engaged in drawing a perspective technology plan for that sector of the industry.

Dialogues have also started at the initiative of DGTD with the industry (public as well as private sector) on absorption of technology. It may, however, be mentioned that whereas considerable selectivity is now being applied in permitting foreign collaborations, there are areas pertaining to production technologies, testing facilities, institutional R & D facilities in certain sectors. The DGTD has highlighted these in a paper on further strengthening of efforts in industries R & D in the country, a reference to which has already been made in reply of Government to Committee's recommendations S. Nos. 5 and 25.

[Ministry of Finance (Bureau of Public Enterprises) O. M. No. 351/76-BPE/MM dated 20-10-76.]

**Recommendation (Serial No. 28, Paragraph 3.24)**

During the course of 20 years as different technologies have been obtained from a large number of countries, it will be necessary to evolve some standardisation and standard specifications. The committee feel that the Technological Development Division can play an important role in bringing about standardisation and rationalisation of equipments and inputs so as to reduce dependence on imports and encourage full utilisation of installed capacity particularly in the public sector.

### **Reply of Government**

The subject is complex but the role of technology development Division of DGTD in bringing about standardisation and rationalisation of equipment and input so as to reduce dependence on imports and encourage full utilisation of installed capacity, particularly in the public sector, is fully appreciated. Some of the actions taken in this direction are stated below:—

- (a) Endeavour is made to exclude from technical package certain know-how or equipment for which capability has been developed or absorbed;
- (b) Wherever possible, import of design and drawings has been encouraged through R&D institutions/consultancy engineering firms which will lead to standardisation;
- (c) Mechanism of forward planning is intended to obtain or develop the technologies on centralised basis in selected areas and to give further impetus to horizontal transfer of technology after due regard to productivity aspects etc;
- (d) Reviews of norms of import of capital equipment, material etc. through collaboration which will give impetus to the capabilities developed in the country in the interim period. For instance, for caustic soda project, the foreign exchange component for the import of capital goods at Rs. 480 per tonne has been reduced to less than Rs. 350 per tonne. This has resulted in substantial saving of foreign exchange.

It may also be stated that further steps in this direction include closer rapport and communication between consultancy and design engineering firms, ISI and R & D, which would give a further fillip to standardisation and standard specifications.

[Ministry of Finance (Bureau of Public Enterprises) O. M. No. 351/176-BPE/MM dated the 20th October, 1976.

#### **Comments of the Committee**

(Please see Paragraphs 1.18 to 1.21 of Chapter I of the Report)

#### **Recommendation (Serial No. 29, Paragraphs 4.109—4.110)**

The Committee need hardly stress that the Research and Development units should be an integral part of the project under

collaboration and Government should have monitored the progress in setting up the R & D facilities since the date of approval of the collaboration so that the time lag in this respect could have been avoided and necessity for extension of collaboration on this score obviated. The Committee would like that Board of Management and the administrative Ministries should keep a close and continuous watch on the progress of setting up of R & D units for absorption, indigenisation of technology and to ensure that the foreign collaborator is discharging his duties and responsibilities in terms of the collaboration agreement in this regard so that suitable remedial measures are taken in time. The Committee would also like that the R & D units set up at the undertakings level should be closely associated with the actual production, improvement in manufacturing processes, improvement of materials, cost reduction etc. and should be in a position to find solutions to technological constraints coming in the way of achieving the designed output.

When it is found to be neither feasible nor economical to have R & D units in certain undertakings, it should be ensured that a close liaison is maintained with undertakings in the same sector and/or engaged in similar manufacturing activities and a pooling arrangements may be made or alternatively such units may be attached to other research institutions as may be found feasible and advantageous.

#### **Reply of Government**

Government accept the recommendation. The Department of Science and Technology has a registration scheme for registering and granting recognition to the Research and Development units set up within the industry. The attention of the public sector units have been drawn to this by the Department of Science and Technology. Further the Government would advise the Public Enterprises to ensure that they establish viable R & D units and have them registered with the Department of Science & Technology.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM, dated the 28th January, 1977]

#### **Further information called for by the Committee**

Please furnish a copy of the instructions issued.

[LSS O.M. No. 25-PU/76 dated 24th Feb. 1977]

#### **Further reply of the Government**

The Department of Science & Technology had written to the public enterprises to ensure that they establish viable R & D units

and have them registered with Department of Science & Technology. A copy of the letter No. DS/NCST/23/75, dated 7-2-76 is attached (*vide* Appendix IV.)

Guidelines are also being issued to the Ministries|Public Enterprises covering the specific points raised by the Committee in the Recommendation. Copy of the guidelines would be furnished shortly.

[O.M. No. 35/1/77-BPE/MM, dated 28th April 1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines|instructions|circulars issued

[LSS No. 25.PU/76, dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued *vide* O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix-I).

[O.M. No. 35/1/77—BPE/MM, dated 1st June, 1977]

**Recommendation (Serial No. 30, Paragraph 4.111)**

The Committee also recommend that there should be a regular system of feed back from the field as well as the market and other technological information on the basis of which products|process development|improvement may be taken up in the R & D units.

**Reply of Government**

The recommendation is accepted. Instructions would be issued to the Public Enterprises suitably.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76—BPE/MM, dated 28th January, 1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines|instructions|circulars issued.

[LSS No. 25.PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued *vide* O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix-I).

(O.M. No. 35/1/77—BPE/MM, dated 1st June, 1977)

**Recommendation (Serial No. 31, Paragraph 4.112)**

The Committee have already suggested nomination of leading Public Undertakings or a 'nodal' agency for purposes of screening and evaluation of technology at sectoral level. The Committee feel that the 'lead' agency could take care of the problems of absorption and development of technology at the sectoral level. There should be close coordination between the R&D units of industries in the same sector for example Heavy Engineering Corporation and MAMC, Fertilizer Corporation of India and FACT etc. etc. The Committee expect that these should cover amongst themselves the entire field of research and development and technological improvements in that sector to avoid any duplication in this regard. In this connection the Committee would like to invite attention to their recommendation in paragraph 6.24 of their 80th Report (1975-76) on Hindustan Antibiotics Ltd.

The Committee would also like that there should be a close liaison amongst public undertakings within a particular sector of the industry for dissemination of knowledge acquired through the R & D efforts.

**Reply of Government**

Government has already mentioned in the reply to Recommendation 9 that an inter-disciplinary group has been established to screen and evaluate the technology and it is necessary to involve public enterprises in this process as a 'lead' or 'nodal' agency. However, their advice will continue to be sought as and when needed.

The recommendation of the Committee that 'there should be a close liaison amongst public undertakings' is accepted. Necessary instructions, in this connection will be issued.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 28th January, 1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

(LSS No. 25-PU/76 dated 24-2-77 and 5-3-77)

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (Vide Appendix—I).

[BPE No. 35/1/77—BPE/MM dated 1st June, 1977]

**Recommendation (Serial No. 32, Paras 4.114 to 4.115)**

The Committee are informed that at present coordination between Public sector and Private Sector in the matter of research and development or between Public Sector units and national research organisations is being achieved through Development councils for different industries, cooperative R&D efforts in the case of textile industry, Central Drug Research Institute in the case of drug industry, CMTI in the case of HMT, National organisations like CSIR, ICAR, CMR, Atomic Energy, Space Research, National Chemical Laboratory, Institute of Science etc. in the case of IPCL Planning and Development and FEDO in the case of fertilizers, etc.

The Committee are given to understand that though Development Councils for different industries have been in existence for a number of years progress in the matter of coordination of R&D has not been significant. The Committee are informed that pursuant to the recommendations of National Commission on Science and Technology, a working group under the Chairmanship of Dr. S. Varadarajan was set up in June, 1974 to suggest measures for organising and providing Research and Development in public sector. The terms of reference include suggestions of measures for establishing meaningful coordination between public sector enterprises and National laboratories. It has been stated that the question of setting up a Council for Research & Development in Public Sector would be examined after the Report of the working group is received. The Committee would like that the working group should expedite its report. The Committee would also like that to be informed of the recommendations of the working group and also action taken in pursuance thereof.

**Reply of the Government**

Administrative Ministries are being requested to examine the working of the development Councils in order to improve coordination between Public and Private Sectors in the matter of research & development. The working group has been requested to expedite its report.

The recommendations of the group along with the action taken will be sent to the Lok Sabha Secretariat in due course.

[Ministry of Finance (B.P.E.), O.M. No. 351176-BPE|MM dated 2-2-1977]

**Further information called for by the Committee**

Please state when the working group is expected to give its report.

[LSS O.M. No. 25|PU|76, dated 24th Feb. 1977].

**Further reply of the Government**

The working group under the Chairmanship of Dr. S. Vardarajan is likely to submit its report within a period of about three months i.e. by 30th June, 1977.

[O.M. No. 35|1|77-BPE/MM, dated 12th December 1977]

The Working Group has finalised the Report.

[O.M. No. 35|1|77-BPE/MM, dated 12th December, 1977]

The Bureau forwarded a copy of the Report of the Working Group in June, 1978.

[BPE O.M. No. 35|1|77-BPE|MM, dated 27th June, 1978].

**Comments of the Committee**

(Please see Paragraphs 1.22 to 1.25 of Chapter—I of the Report).

**Recommendation (Serial No. 33, Paragraph 4.116)**

The Committee recommended that research undertaken by the National Laboratories should have close relation to the needs of industry so that National Laboratories may see greater purpose and pressure in producing viable results and the process of know-how transfer is facilitated. In this connection the Committee would like to commend the example of the Department of Atomic Energy which has been successful in making fruitful use of the results of research in their industry and the efforts made by SAIL in bringing about such coordination in the Steel industry. The Committee would like to judge the efforts of coordination at the National level by the actual results by way of attaining self-reliance in settling technological problems in industries and in the assistance in the expansion programmes.

**Reply of Government**

The recommendation of the Committee is accepted. Instructions will be issued to the research agencies drawing their attention to this recommendation and to ensure their involvement and more intimate contract with the problems of the industry.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35|1|76-BPE|MM, dated the 28-1-77].

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued vide O. M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the guidelines is attached here-with (vide Appendix-I).

[O.M. No. 35/1/77-BPE/MM dated 1-6-1977].

**Comments of the Committee**

(Please see paragraphs 1.26 to 1.30 of Chapter I of the Report).

**Recommendation (Serial No. 34, Paragraph 4.117)**

The Committee feel that R&D has a crucial role to play with more emphasis on development and the whole thrust should be on upgrading the technological expertise of the industrial units.

**Reply of Government**

Government agree with the views of the Committee. Action will be taken as stated earlier in the reply to Recommendation No. 23.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM, dated the 28-1-77].

**Recommendation (Serial No. 35, Paragraph 4.118)**

The Committee also recommend that these should be regular programmes of exchange of personnel between the industry and research institutions as is being reported to be done in the case of Defence undertakings and Defence research institutions and Cement Industry and Cement Research Institute. This will enable an appreciation of the utilisation of the results of research in the undertakings and facilitate the research institutions to adapt their programmes to the needs of the industry.

**Reply of Government**

The recommendation of the Committee is accepted. This will be brought to the attention of scientific agencies for implementation.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM, dated the 28-1-77].

**Further information called for by the Committee**

Please furnish a copy of the guidelines|instructions|circulars issued.

[LSS No. 25-PU|76, dated 24-2-77 & 5-3-77].

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL|012|BPE|MM, dated 9th May, 1977. One copy of the Guidelines is attached here-with (vide Appendix-I).

[BPE No. 35/1/77-BPE/MM dated 1-6-1977].

**Recommendation (Serial No. 36, Paras 4.119 and 4.120)**

The Committee would also like that a study may be undertaken to assess the relative advantage of investment in R&D on a long term basis instead of importing technology from abroad at high costs. In this connection, the Committee would like to cite the instance of Japan where R&D has been given the highest importance on account of which Japan has not only been able to indigenise the technology but also to improve and upgrade the know-how to improve the products and make their technology exportable.

**Reply of Government**

Government is of the view that in the area of high investment a long-term investment in research and development is generally desirable so that over a period, the necessary infrastructure for absorbing the imported technology is established.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM, dated 2-2-1977].

**Comments of the Committee**

(Please see Paragraphs 1.31 to 1.36 of Chapter I of the Report).

**Recommendation (Serial No. 37, Paragraph 4.121)**

The Committee are informed by the representative of Department of Science and Technology that the overall expenditure on R&D in the public sector as a percentage of turnover is only 0.6 per cent and

it is expected to be about 1 per cent by the end of the Fifth Plan. The Committee understand that the ratio of R&D expenditure to turnover is very low in India. Some of the undertakings have stated that there are no specific allocations for R&D by Government and the present expenditure has to be made from the profit and loss accounts of the undertakings. The Committee agree that the Research and Development activities can be done in a meaningful manner if adequate finances are provided. They feel that a stage has now come where it should be possible for the industries themselves to mobilise the necessary resources for their R&D efforts in the overall national interest. The Committee would like Government to ensure that adequate funds say 3 to 5 per cent of the turnover are allocated for research and developments. The Committee have no doubt that if R&D activities are undertaken with determination and dedication, they would pay back manifold.

#### **Reply of Government**

Funding for research and development is under review and a proposal for levying R&D cess has also reached an advanced stage. Even now, funds are allocated for R&D activities in several central agencies within the overall financial constraints of the Government. In addition, to providing direct support to R&D from the central fund, alternative forms of supporting R&D activities in industry have been given effect to, particularly, in the form of fiscal incentives.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 46|1|76-BPE|MM, dated 28-1-77].

#### **Further information called for by the Committee**

Please furnish a copy of the decision taken on the proposal for funding the research & development and for levying research and development cess.

[LSS No. 25-PU|76 dated 24-2-77].

#### **Further reply of the Government**

Government is engaged in drafting a legislation for levy of a general R&D cess on industries coming within the purview of the industries (D&R) Act.

[BPE's O.M. No. 35|1|77-BPE|MM dated 15-6-77].

### Comments of the Committee

(Please see Paragraphs 1.31 to 1.36 of Chapter I of the Report).

#### Recommendation (Serial No. 28, Para 4.122)

The Committee are informed that though the science and technology plan prepared in 1973 has made available for the first time a detailed programme of work in various sectors further experience has shown that it is necessary to have a perspective planning for R&D.

274

The Committee feel that Government should draw up a perspective plan say for 10 or 15 years for R&D which should be inter-related to the particular industrial sectoral units.

#### Reply of Government

The up-dating of the Plan is receiving the attention of the Department of Science & Technology. This will have to be done taking into account the technological developments.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 28th January, 1977.]

#### Further information called for by the Committee

Please indicate as to what concrete measures have been taken to draw up a long term perspective plan for R&D and whether the plan has since been finalised. If so, a copy of the same may be furnished.

[LSS—O.M. No. 25-PU/76 dated 24th Feb. 77]

#### Further reply of the Government

One of the terms of reference of the National Commission on Science & Technology is continuous updating of National Scientific and Technical plan, both five year plans and perspective plans. A draft Science & Technology plan has already been prepared in two volumes and the same released to publication.

[O.M. No. 35/1/77-BPE(MM) dated 28th April, 77]

**Recommendation (Serial No. 39, Para 4.123)**

The Committee understand that a beginning has been made by the Commission on Science & Technology to identify the areas in which R&D may be undertaken in the future and what is necessary is to establish time-bound operational programmes for each succeeding 3 to 5 years period. The Committee would like that there should be close coordination between the Industries and the Research Laboratories at National level so that programmes are drawn up in consultation with the industrial units. Priority should be given by the national laboratories to problems actually faced by the industries rather than to problems of academic interest. The Committee would also like that the programmes to be undertaken should be time-bound and with specific budget allotment therefor.

**Reply of Government**

Government agree with the views of the Committee. Guidelines/instructions have already been issued to the public enterprises/research agencies *vide* BPE No. 3|1|74-Prod, dated 13-2-1974 that an integrated and well thought out arrangement should be developed for meaningful coordination between the research organisations particularly in the Public Sector and Government in the interest of making a concerted effort to find workable and practical solutions to the production problems in the shortest time.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|76-BPE|MM, dated 2-2-1977].

**Recommendation (Serial No. 40, Paragraph 4.124)**

The Committee also recommend that an overall review of the Research and Development at the National level with reference to the goals and the financial targets set therefor, should be conducted at quarterly intervals by a coordinating Committee consisting of the DGTD, Department of Science and Technology, the representatives of the industries, the BPE, Ministry of Finance, and Chief of the Administrative Ministry concerned and meaningful follows-up action taken as a result of such reviews.

**Reply of Government**

The recommendation for an overall review of the Research & Development at the national level with reference to the goals and the financial targets set is accepted. However, the frequency of such a review at quarterly interval is not practicable and will be done from time to time.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|76-BPE|MM dated the 28th January, 1977]

**Further information called for by the Committee**

Please indicate specifically at what intervals such review is proposed to be undertaken.

[LSS O.M. No. 25-PU/76 dated 24th Feb. 77]

**Further reply of the Government**

An overall review of the Research and Development at the national level with reference to the goals and the financial targets, would be undertaken yearly before the budget is approved for the following year.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|77-BPE|MM dated the 28th April, 1977].

**Recommendation (Serial No. 41, Paras 4.125 to 4.127)**

The Committee are informed that though in certain sectors the communication between the National Laboratories and the industry is good, there are many areas where the results of laboratory have not percolated to the industry. It has been stated that efforts are being made by the NRDC on the laboratory side and the DGTD from the industry side to project the results of Research to Laboratory.

The Committee feel that there should be a system of communication of the results of research which are of wider interest to all the Public Undertakings and to the industry provided such dissemination of information does not come in conflict with the larger interests of the Public Sector.

**Reply of Government**

The recommendation is accepted. Government have noted down the views of the Committee.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|76-BPE|MM, dated 2-2-1977].

**Further information called for by the Committee**

"Please indicate the specific steps taken by Government to implement the recommendation and progress made thereof."

[LSS No. 25-PU|76 dated 24th Feb. 1977].

**Further reply of Government**

Guidelines have been issued to the Ministries|Public Enterprises vide O.M. No. GL|012|BPE|MM, dated 9th May, 1977. Para 40(f) refers.

[BPE O.M. No. 35|1|77-BPE|MM, dated 1st June, 1977].

**Recommendation (Serial No. 42, Paragraph 4.128)**

The Committee would like Government to examine the question of instituting suitable awards|incentives for outstanding achievements|contribution in the field of research and development.

**Reply of Government**

Some awards and incentives for contribution in the field of Research and Development are already available.

Import substitution awards are administered by DGTD and Invention Talent Competition and Invention Essay Contacts are conducted by NRDC. Some tax concessions on expenditure incurred on Research and Development work are already allowed.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|76-BPE|MM dated the 29th November, 1976].

**Recommendation (Serial No. 43, Paras 5.66 and 5.67)**

The Committee feel that a mere provision in the agreement for permitting horizontal transfer of technology may not fully sub-serve the objectives unless the undertakings importing technology build up their own engineering and B&D organisation to assimilate, update and indigenise the technology and effect improvements as required.

**Reply of Government**

Government agree with the views of the Committee. Instructions/guidelines would be issued to the Ministries/Public enterprises.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM dated 2-2-1977].

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued, vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix—I).

[BPE No. 351/77-BPE/MM dated 1st June, 1977].

**Recommendation (Serial No. 44, Para 5.68)**

The Committee have already suggested that Government should, for purposes of screening and selection of technology, consider nominating a leader public undertaking which on account of its R&D, managerial strength and technology expertise in the particular field, has acquired a standing in the industry. The Committee feel that such leader organisations in different sectors may be considered as agencies for absorption of technology and transfer to other parties in India. Such leading agencies should have close coordination with CSIR, NRDC, Department of Science and Technology etc.

**Reply of Government**

The inter-disciplinary group constituted by the Government for the scrutiny and selection of technology would include experts from public sector units also.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM dated the 20th January, 1977].

**Recommendation (Serial No. 45, Paras 5.69 to 5.70)**

The Committee need hardly stress that any provision restricting sub-licensing or lateral transfer of technology results in repetitive import of the same technology or creates the problem of multiplicity of collaboration which besides entailing available foreign exchange introduces a variety of standards of various countries for similar products, different standards for raw materials, spares, designs specifications thus hindering standardisation and variety reduction which may be essential for improving productivity and reducing costs.

**Reply of Government**

Government agree with the views of the Committee. The recommendation is accepted.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM dated 2-2-1977].

**Recommendation (Serial No. 46, Para 5.71)**

The Committee also find that there is no uniformity in regard to inclusion of a provision in the agreements with foreign collaborators placing a limitation on them to make available the same technology or a slightly advanced know-how to any other party in India. The Committee would like Government to consider including this provision uniformly in all foreign collaboration agreements in the interest of avoiding repetitive import of technology.

**Reply of Government**

The principle of avoiding repetitive import of technology is already incorporated in the existing guidelines for foreign collaboration and is kept constantly in view while approving collaboration proposals. While scrutinising foreign collaboration proposals, the technical department or agencies always ensure that repetitive import of technology is avoided to the extent possible. It may not, however, be feasible to impose a uniform condition in all foreign collaboration approvals obliging foreign collaborators to make available the same or slightly advanced know-how to any other party in India.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM dated 29th November, 1976].

**Further information called for by the Committee**

"Please indicate if any comparative study of Technology had been undertaken by Government so far and if so, the results thereof. It

may please be clarified as to how it is ensured that in cases of import of improved process of Technology, the production leads to healthy competition with existing unit rather than its closure.

[LSS O.M. No. 25-PU/76 dated 31-3-77]

**Further reply of the Government**

DGTD have made a beginning in the direction of comparative study of various technologies to have an inter-unit comparison with reference to cost & merit. The results are yet to be arrived at. These would be communicated as soon as these are available.

Further, to ensure that the import of the improved process technology should lead to healthy competition with existing unit rather than its closure, guidelines have been issued to the Ministries/ Public Enterprises to take suitable action. B.P.E. O.M. GL/012/ BPE/MM, dated 9th May, 1977. Para 1(b) refers. (Appendix-I).

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/77-BPE/MM dated 1st June, 1977].

**Recommendation (Serial No. 47, Para 5.72)**

The Committee feel that the over-riding consideration to transferring technology laterally should be the national interest and not the interest of an individual unit. The Committee recommended that Government may consider equipping themselves with powers, statutory as well as administrative, to make it obligatory on the part of recipient of foreign technology to transfer to consider essential in public interest.

**Reply of Government**

Several Departments of Government are involved in the implementation of this recommendation. Views of the concerned Ministries will have to be taken in formulating the necessary steps.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 28th January, 1977].

**Further information called for by the Committee**

Please indicate what specific steps have been taken to implement the recommendation.

[Lok Sabha Secretariat O.M. No. 25-PU/76 dated 31st March, 1977]

**Further Report of the Government**

As far as Public Enterprises are concerned this point is adequately covered in the Bureau of Public Enterprises guidelines issued vide GL/012/BPE/MM dated 9th May, 1977 wherein the importance of avoiding repetitive import of technology/know how for same or similar products or processes has to be kept in view. There should be

no difficulty for the Government to ask the Public Enterprises to transfer the technology to any other Indian Party as and when considered necessary in public interest. In case of private sector, the private companies are asked to confirm at the time of submitting their applications for foreign collaboration that the foreign collaborator is agreeable to make available the technical knowhow|product design|engineering design to other Indian Parties, on terms and conditions may be agreed to by the parties concerned, including the foreign collaborator and subject to the approval of the Government.

[Bureau of Public Enterprises (Materials Management) O.M. No. 35/1/77-BPE/MM dated 23rd May, 1978].

#### Comments of the Committee

Please see paragraphs 1.37 to 1.39 of Chapter I of the Report.

#### Recommendation (Serial No. 49, Paras 5.74 to 5.75)

The Committee are informed that in the case of BEML horizontal transfer of technology of the processes that are patented, is not normally allowed. IOC has stated that a patented process cannot be transferred to any other party without paying some royalty to the foreign collaborators.

As it is likely that numerous worthwhile processes might have been patented already before the foreign collaboration agreements are signed, the restrictive law/practice obtaining in this regard may place a number of such processes under virtual embargo so far as their horizontal transfer|sub-licensing is concerned. The Committee suggest that Government should examine the question from legal and national point of view and see how there can be free flow of technical know-how etc., patented as well as non-patented from the Indian party to another so that repetitive import of the same or similar technology can be avoided in larger national interest.

#### Reply of Government

Government accept the recommendation of the Committee. The question will be examined further from the legal and national point of view.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 29th November, 1976]

#### Further information called for by the Committee

Please state the further progress made for the examination of the question from the legal point of view and the results thereof.

### **Further reply of the Government**

Ministries/Government Departments have been advised to take action *vide* O.M. No. 35/1/77/BPE (MM), dated 12th May, 1977 (*vide* Appendix V).

[BPE O.M. No. 35/1/77-BPE (MM) dated 1st June, 1977]

### **Comments of the Committee**

Please see Paragraphs 1.40 to 1.43 of Chapter-I of the Report.

#### **Recommendation (Serial No. 51, Para 6.17)**

From the information gathered in respect of agreements with public undertakings, the Committee find that the duration of agreements has exceeded in fairly large number of cases the prescribed limit of 8 years. They would like that Government should make a critical review of such agreements with a view to find out the specific reasons for such a long duration so that suitable remedial measures may be taken at least in the future.

### **Reply of Government**

The recommendation is accepted. The agreements would be critically reviewed to find out the specific reasons for such a long duration.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 2-2-1976]

### **Further information called for by the Committee**

Please indicate when the review will be undertaken by whom and when it is likely to be completed. If already done, please indicate the results of the review.

[LSS No. 25-PU/76 dated 24th Feb., 77]

### **Further reply of the Government**

Ministries/Government departments have been advised to take action *vide* O.M. No. 35/1/77/BPE (MM), dated 12th May, 1977 (*vide* Appendix V).

[BPE No. 35/1/77-BPE (MM), dated 1st June, 1977]

#### **Recommendation (Serial No. 52, Para 6.18)**

The Committee are convinced that the collaboration agreements should be for a definite period which should be fixed on a realistic but strict basis even *ab initio* according to the merits of each case.

in close consultation with the undertaking, DGTD, National Commission on Science and Technology, Bureau of Public Enterprises etc. The Committee feel that there should be built in mechanism by which absorption of technology is facilitated within the period of collaboration agreement. The administrative Ministry should take steps to monitor the progress of collaboration at different stages right from the commencement and also undertake a critical mid-term appraisal of the progress of collaboration in close coordination with the Bureau of Public Enterprises, DGTD and NCST etc. with a view to taking suitable remedial measures in time so as to obviate the necessity of extending the period of agreement. The Committee also feel that the period of 5 years normally allowed for collaboration should not be taken for granted but it should be the endeavour of the public sector undertakings to reduce the period of collaboration to less than 5 years and attain self-reliance at the earliest by fully absorbing and indigenising the technology and know-how.

#### **Reply of Government**

The recommendation is accepted. Necessary steps would be taken in this respect.

[Ministry of Finance (Bureau of Public Enterprises) O.M.  
No. 35/1/76-BPE(MM) dated 2-2-1977]

#### **Further information called for by the Committee**

Please furnish a copy of the guidelines/instruction/circulars issued.

(LSS No. 25-PU/76 dated 24.2.77 & 5.3.77)

#### **Further reply of the Government**

Guidelines have been issued *vide* O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix—I).

[BPE No. 35/1/77-BPE/MM dated 1st June, 1977].

#### **Recommendation (Serial No. 53, Paras 6.19 to 6.20)**

Since extension of agreements is likely to increase the total amount of royalty payments with consequent increase in the outgo of foreign exchange the Committee urge that extensions of collaboration agreements may be granted only in exceptional cases where called for in the national interest and it should be ensured that the objective for which collaboration was entered into are at least fulfilled within the extended period. The Committee also stress that requests for exten-

sion of collaboration agreements should be made well in time say 12—18 months before the enquiry of the original agreement as that the matter can be reviewed in depth in consultation with all concerned and final decision communicated before the expiry of the existing agreement to obviate any uncertainty.

The Committee recommend that any extension of agreement beyond a period of 8 years should be brought to the notice of Parliament.

#### **Reply of Government**

Extension of collaboration agreements are allowed only if there is sufficient justification for the same. Government, however, accept this recommendation and will advise the administrative Ministries to keep a watch on the implementation of the collaboration agreements in the light of the observations of the Committee for suitable action at appropriate time.

All foreign collaboration proposals involving extension of agreements beyond a period of 8 years are approved by the Foreign Investment Board. Quarterly statements of foreign collaboration proposals approved by the Board which indicate the name of foreign collaboration, items of manufacture and whether the collaboration also involve foreign capital participation are regularly sent to the Parliament Library. Information regarding extensions, if any, will also be sent alongwith this statement in future.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 29th November, 1976]

#### **Recommendation (Serial No. 54, Paras 6.57 to 6.58)**

Although according to Policy Guidelines, it is necessary that Government as well as undertaking should follow time-bound programmes for getting the project report cleared. The Committee have, during the course of examination of public undertakings come across several cases of abnormal delays in the approval of DPRs which had the effect of increasing the cost of the project as also the outgo in foreign exchange. While there cannot be two opinions that the DPRs should, as also recommended by the Committee in para 2.27 of their 68th Report on Bokaro Steel Ltd., be effectively scrutinised and properly appraised from all angles, the Committee do not agree that delays in the approval of DPRs are inevitable.

#### **Reply of Government**

Government accept the recommendation. This would be brought to the notice of all concerned.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/7 -BPE|MM dated 26-2-1977]

**Further information called for by the Committee**

Please furnish a copy of guidelines/instructions issued in this regard.

(LSS No. 25-PU/76 dated 5th March, 1977)

**Further reply of the Government**

One copy of BPE's O.M. No. GL/015/77-BPE(MM) dated 8th June 1977 is attached herewith. (Vide Appendices VI and VII).

(BPE's O.M. No. 35/1/77/BPE/MM dated 15th June 1977)

**Recommendation (Serial No. 55, Para 6.60)**

The Committee agree with the suggestion made by the Department of Atomic Energy that a workable solution to avoid delay may be to constitute a Committee comprising the nominees (experts) of the various Ministries involved in decision making, which may meet once or twice alongwith the representatives of the Public Undertaking within the stipulated period to resolve difficulties if any, in order to expedite final decision.

**Reply of Government**

The recommendation is accepted. An inter-Ministerial Steering Committee has been formed for Mathura Refinery and Koyali Refinery Expansion to expedite the project by taking quick decisions. This will be done for other projects also in future to the extent possible.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM dated 26-2-1977]

**Further information called for by the Committee**

(a) Please indicate the composition and function of the Inter-Ministerial Steering Committee constituted for Mathura Refinery and Koyali Refinery.

(b) Please furnish a copy of the instructions/guidelines issued in this regard.

(LSS No. 25-PU/76 dated 5th March 1977)

**Further reply of the Government**

The Inter-Ministerial Steering Committee was constituted with the Secretary/Additional Secretary, Ministry of Petroleum as Chairman and representatives of the following as Members of this Committee:

- (1) Indian Oil Corporation Limited.
- (2) Engineers India Limited.

- (3) Department of Expenditure.
- (4) Department of Economic Affairs.
- (5) Ministry of Industrial Development.
- (6) Ministry of Heavy Industry.
- (7) Department of Steel.
- (8) Ministry of Shipping and Transport.
- (9) Ministry of Defence (Chief Naval Hydrographer Dehra-dun).

The Committee was constituted with a view to ensure coordination between the various organisations for the timely completion of Mathura Refinery and Koyali Refinery expansion projects. The Committee would be reviewing the progress achieved and take suitable decisions regarding relaxation, if any, that should be granted to enable the completion of these projects in accordance with the time schedule. The Committee may also authorise import after obtaining the clearance from the Ministry of Industry, and would ensure that every possible effort is made to minimise additional foreign exchange outgo.

One copy of BPE's. O.M. No. GL/015/77-BPE(MM) dated 8th June, 1977 is attached herewith (Appendix—VI).

[BPEs O.M. No. 351/77-BPE (MM), dated 15th June, 1977].

**Recommendation (Serial No. 56, Paras 6.61 to 6.63)**

The Committee suggest that suitable time-limit should be fixed/evolved for approval of DPR by different Departments and Divisions of Government within the total time schedule fixed. For this purpose the Committee suggest that Government may evolve a procedure by which copies of DPR are made available to the concerned Departments/Ministries in time, so that consideration thereof is no delayed. Once the DPR is approved there should not be any delay in communicating its approval. In case any delay is anticipated at least financial sanction to cover the immediate outlay should be communicated to avoid delay in initiating action for implementation of the Project.

The Committee need hardly stress that any delay in the approval of the DPR not only escalates the cost of the construction of the project which may adversely affect its profitability but also have far reaching adverse effect on the attainment of planned targets.

The Committee therefore, stress that an effective follow-up should be maintained at all levels in the administrative Ministry and the undertaking concerned till the DPR is finally cleared by the Public Investment Board or the Cabinet Sub-Committee as the case may be.

**Reply of Government**

The Government agree with the views of the Committee. These will be brought to the notice of all concerned.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM dated 26-2-1977]

**Further information called for by the Committee**

Please furnish a copy of guidelines/instructions issued in this regard.

(LSS No. 25-PU/76 dated 5th March, 1977)

**Further reply of the Government**

One copy of BPE's O.M. No. GL/015/77-BPE (MM) dated 8th June 1977 is attached herewith. (Vide Appendices VI and VII).

[BPE's O.M. No. 35/1/77-BPE (MM) dated 15th June 1977]

**Recommendation (Serial No. 57, Paras 6.64 to 6.67)**

The Committee have in the course of the examination of several Public Undertakings come across many shortcomings in the preparation of DPRs like non-inclusion of cost of township and other ancillary facilities, non-stipulation of sequence of delivery of designs, drawing and supply of plant and equipment, non-inclusion of dates for commencement of commercial production, not stipulating the staff requirements at different stages, etc. The Committee have given their recommendations how these shortcomings have resulted in escalation of cost and delays in commissioning, and affected the marketability of products and ultimately the profitability.

The Committee note that the Ministry of Finance have laid down a detailed procedure for checking and clearance of DPR. The Committee would like that an evaluation should be made of the working of this procedure with a view to further streamlining it and making the scrutiny more meaningful.

The Committee would urge Government that in addition to examining whether the project fits in the broad pattern of economic development also consider the economic aspects, particularly the demand for the product, whether the cost would give adequate return, the installed and the likely additions to the industry, market analysis, imports-exports policy, etc.

#### **Reply of the Government**

Government accept the recommendation. The procedure for checking the DPRs would be evaluated and further guidelines also issued regarding the other aspects brought out by the Committee.

[Ministry of Finance (Bureau of Public Enterprises) O.M.  
No. 35|1|76-BPE|MM, dated 26th Feb. 1977].

#### **Further information called for by the Committee**

Please furnish a copy of guidelines|instructions issued in this regard.

[LSS No. 25-PU|76 dated 5th March, 1977]

#### **Further reply of the Government**

One copy of BPE's O.M. No. GL|015|77-BPE (MM), dated 8th June, 1977 is attached herewith. (Vide Appendices VI and VII).

[BPE's O.M. No. 35|1|77|BPE|MM, dated 15th June, 1977]

#### **Recommendation (Sl. No. 58, Para 6.82)**

The Committee agree with the view expressed by the undertakings in general that a clause on training should form an integral part of the collaboration agreement itself in the interest of absorption of know-how at a quicker pace at no extra cost and stress that the Indian engineers/technicians should be associated with the foreign collaborators during the various stages, particularly the design stage of the plant, for long enough period to enable them to pick up the intricacies of the work and develop the necessary expertise in this crucial field. In this connection the Committee would also invite attention to recommendation in para 7.14 of their 17th Report (1971-72) on Personnel Policies and Labour Management Relations in Public Undertakings. The Committee suggest that during the period when Indian engineers work with the foreign experts for designing, commissioning, operation etc. of Plant, emphasis should also be laid on the acquisition of knowledge and expertise for reaching full pro-

duction upto the level of installed capacity at the earliest and maintaining it at that level. The Committee have come across cases where absence of maintenance schedules has resulted in frequent breakdowns hampering production. In the opinion of the Committee, the maintenance of plants (including drawal of maintenance schedules) should therefore be an important aspect to be taken care of. The Committee suggest that arrangements for training should be provided at the collaborator's works on machines and equipments which are more or less identical with those which would be supplied under the terms of agreement for installation in the country and such training should be much before the commissioning of the plant. The Committee recommend that a careful watch on the extent of the facilities actually made available to the Indian engineers and personnel should be kept so as to ensure that full advantage of training is secured. The Committee also suggest that suitable guidelines in this regard may be issued for the benefit of the Undertakings.

#### **Reply of the Government**

Government accept the recommendation. Guidelines have been issued to the enterprises by the Bureau of Public Enterprises that the collaborator would undertake to train Indian Personnel and facilitate the transfer of technical know-how to them. (Vide O.M. No. 351/73-BPE/MM, dated 14-11-1974 para 4(C).

[Ministry of Finance (BPE), O.M. No. 351/76-BPE/MM, dated 2-2-1977]

#### **Recommendation (Serial No. 59, Para 6.83)**

The Committee need hardly stress that there should be coordination amongst the Public Undertakings working in the same sector so as to cover amongst themselves the entire gamut of designing, operation maintenance, etc., of plants and projects.

#### **Reply of the Government**

Government accept the recommendation. Guidelines would be issued to the Ministries|Public Enterprises.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM, dated 2-2-77].

#### **Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76, dated 24-2-77 & 5-3-77].

**Further reply of the Government**

Guidelines have been issued *vide* O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix—I).

(BPE No. 35/1/77-BPE/MM, dated 1st June, 1977)

**Recommendation (Sl. No. 60, Para 6.84)**

The Committee would commend the example of training to Bhilai engineers for adoption by the Public Undertakings. The Undertakings should also make sure that content and duration of training is precisely spelt out in consultation with the collaborators before deputing them for training abroad and that the technicians actually receive practical training in the maintenance and operation so that the undertaking can derive maximum benefit out of their experience abroad.

**Recommendation (Sl. No. 61, Para 6.85)**

The Committee would stress that the strategy evolved by MECON should be followed by other Undertakings, as necessary, to expedite attainment of self-reliance in fields of crucial importance for development.

**Recommendation (Serial No. 62, Para 6.86)**

The Committee suggest that the Indian personnel and engineers on return from abroad should be required to submit a report giving a precise account of the training that they have received and also about the significant developments in technology which would be of interest to the Public Undertaking. The Management should carefully scrutinise the report with a view to identifying points which should be beneficial to the undertaking and take suitable measures as may be necessary in this regard.

**Recommendation (Sl. No. 63, Para 6.87)**

The Committee also suggest that adequate safeguards and stipulations should be made to ensure that, on return, the trained technicians are obliged to serve the sponsoring undertaking for considerable long periods so that the advantages of training are not lost to the Undertaking. The sponsoring organisation should put the services of such trained technicians to the best possible use not only in the sphere of operation and maintenance of the plants, as such but also in making them impart in-plant training to their technicians working in the unit so as to produce second generation

experts in the long range interest of the Undertaking. Besides giving training to others the trained engineers and personnel on return from abroad should be required to share their experiences in 'workshop meets' with other colleagues in the Undertaking.

### **Reply of the Government**

Government accept the recommendations. Guidelines/instructions would be issued to the Ministries/undertakings.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM, dated the 2nd Feb. 1977]

### **Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

(LSS No. 25-PU/76, dated 24-2-77 & 5-3-77)

### **Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, date 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix—I).

(BPE No. 35/1/77-BPE/MM, dated 1st June, 1977)

### **Recommendation (Serial No. 64, Para 6.114, 6.115)**

The Committee note that from the information supplied by about 50 undertakings that except in the case of HMT, IRE, Lubrizol, Richardson and Cruddas, Jessop and Company, the agreements with collaborators generally provide for supply of equipments and the sequence of delivery is also mentioned therein, though in some agreements the sequence of delivery has not been provided as in the case of Bokaro, Bhilai, CMA, GRW and BOGL. It has however, been stated that in the case of Bokaro, GRW, the absence of such a provision has not affected the programme of supply. The Committee have in this connection given their recommendation in paragraph 4.34 of their 68th Report (4th Lok Sabha) on Bokaro Steel Ltd.

In some cases it has been contended that the absence of a schedule of delivery has not affected the programme of the project. The Committee have also given their comments in the case of Indian Telephone Industries where the absence of a detailed catalogue of spares and delivery of equipments and parts has affected the schedule of

completion of project vide their Report on III (34th Report of CPU 5th Lok Sabha). The Committee have also given their comments in regard to the delay in start-up of production in the HRF due to delay in receipt of the equipment on account of change of design and the consequent loss of production and also how because of over-lapping of responsibilities between HPF and the collaborators no responsibility could be fixed on the collaborators. The Committee would therefore like that wherever collaboration agreements provide for supply of plant and equipments the sequence of delivery of these equipments should be specifically indicated in the agreements and the schedule of delivery should be fixed after taking into account the time fixed for erection and commissioning of the plant. There should also be suitable clauses providing for penalties for late deliveries, short and/or defective supplies.

#### **Reply of the Government**

Government accept the recommendation. Guidelines have been issued vide O.M. No. 35/1/73-BPE/MM, dated 14th Nov., 1974 para 22 & 24(b) that it would be desirable to watch these time schedules and targets by net work analysis and where possible, penalty clause for non adherence to the committed delivery schedules of equipments, components, materials, designs specification, know-how etc. should be provided. Further Guidelines will be issued covering the other aspects brought out by the Committee.

**[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 26th February, 1976]**

#### **Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

(LSS No. 25-PU/76 dated 24-2-77 & 5-3-77)

#### **Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix—I).

(BPE No. 35/1/77-BPE/MM dated 1st June, 1977)

#### **Recommendation (Sl. No. 65, Para 6.116)**

The Committee feel that though in cases where the collaborator is ultimately responsible for the performance of the system as a

whole or where the contract is for turn-key project, the pre-inspection and the testing of the equipment may not appear to be absolutely essential, it will not only be desirable in the interest of timely detection of any manufacturing or other defect but it will be of advantage to the undertaking if the plant and equipments are inspected and tested before despatch at the works of the suppliers. They would therefore suggest that a provision for pre-inspection and testing of the equipment before despatch should be included in all collaboration agreements which include supply of equipment.

**Reply of Government**

Guidelines have been issued to the Ministries|Public Enterprises by BPE for pre-shipment inspection|testing clause by independent inspection agencies covering the inspection of materials before despatch, *vide* O.M. No. 35-1-73-BPE|MM, dated 14-11-1974.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 2nd Feb. 77]

**Further information called for by the Committee**

Please furnish a copy of the guidelines|instructions|circulars issued.

(LSS No. 25-PU|76 dated 24-2-77 & 5-3-77).

**Further reply of the Government**

Guidelines have been issued, *vide* O.M. No. GL|012|BPE|MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix—I).

(BPE No. 35/1/77-BPE/MM dated 1st June, 1977)

**Recommendation (Sl. No. 66, Para 6.117)**

The Committee also recommend that it should be ensured that the provision for supply of plant and machinery through the collaboration agreements should also include provision for supply of spares initially at least for a period of two years to assist the undertaking to overcome its difficulties in regard to maintenance in the initial stages. The undertakings should carefully scrutinise the list of spares with a view to ensure that the spares are absolutely essential. It should however be the endeavour of the undertakings to develop the spares through their R&D Wings on the basis of indigenously developed designs and drawings concurrently with the subsistence of collaboration agreement so that the undertakings may not be put

to the necessity of importing these spares at a later stage for purposes of maintenance.

**Recommendation (Serial No. 67, Para 6.118)**

Since supplies of plant and machinery and spares provided for in the collaboration agreements are expected to take into account the availability of indigenous plant and machinery and spares, Government|Undertaking should ensure that the schedule of delivery of such indigenous equipments synchronises with that of the imported equipments to avoid delays in erection and commissioning of plants due to non-supply of indigenous equipments in time. The Committee have, during the course of examination of several undertakings, come across cases where delays in supplies of indigenous equipments have affected the programme of erection and commissioning of plants with the result that not only expenses on account of collaborators have increased with consequent increase in the outgo of foreign exchange but the collaborators also could not be held responsible for delays in erection|commissoning and/or for guaranteed production, as generally the collaboration agreements provide that normally guarantees are available for a period of 12 months from the date of completion of erection or 18|24 months from the date of last shipment whichever is earlier.

**Reply of Government**

Government accept the recommendations. Necessary guidelines|instructions would be issued to all concerned.

[Ministry of Finance (Bureau of Public Enterprises) O.M.No. 35|1|70-BPE|MM dated the 2nd Feb. '77].

**Further information called for by the Committee**

Please furnish a copy of the guidelines|instructions|circulars issued.

(LSS No. 25-PU|76 dated 24-2-77 & 5-3-77).

**Further reply of the Government**

Guidelines have been issued, vide O.M. No. GL|012|BPE|MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix—I).

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|77-BPE|MM, dated 1st June, 1977].

**Recommendation (Serial No. 68, Para 6.119)**

The Committee feel that compulsory channelisation of imports through collaborators are only a means of imposing restrictions on purchases and involve not only additional expenditure on foreign exchange but is also likely to lead to increase in the import content of the product.

**Reply of Government**

Government accept the recommendation. Guidelines have been issued to the Ministries|Enterprises by B.P.E. to provide for the right to procure components|equipments directly from the concerned suppliers in case the prices quoted by such suppliers are lower than those quoted by the collaborators. Vide O.M. No. 35|1|73-BPE|MM, dated 14-11-78.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1|76-BPE|MM dated the 2-2-1977].

**Recommendation (Serial No. 19, Paragraphs 6.120 to 6.122)**

The Committee are not sure whether it is always possible to retain freedom to procure equipments from the sources of one's own choice where either the agreement is tied to foreign credit or the equipment is of proprietary nature. But they see no reason why the Indian party should be made to buy equipment through the collaborator where either the required equipment of good enough quality is available from indigenous sources or where the collaborator does not himself manufacture the equipment in question but merely procures it from a sub-suppliers. The Committee would like the Government Undertaking to examine this aspect and to resist any such attempt by the foreign collaborator. In view of the experience that the equipments supplied by the collaborators by purchasing them from their sub-suppliers are costlier by 25 to 30 per cent than the global tenders it is all the more necessary that the Government|Undertaking do some hard bargaining with the foreign collaborators and do not agree, as far as possible, to have equipment through them when they themselves are not the manufacturers of such equipment. Where, however, it is unavoidable to agree to channelise, procurement of equipments through the collaborators, Government/Undertaking should not agree to pay prices which are higher than the world market prices as tested through global tenders or through consultants or otherwise by comparison with the prices of similar or near similar items supplied by the same collaborator to other parties in India and abroad, as far as possible. The Committee would like that

the prices to be charged for the equipment, components and stores should not be left to the collaborators, as was seen in the case of Hindustan Cables Ltd. but should be determined in advance and provided in the agreement.

#### Reply of Government

The recommendation is accepted. Guidelines have been issued to the Public Undertakings by the Ministry of Industrial Development vide O.M. No. ID&FC.5(26) 68-II, dated January 25, 1969, Government feel that prices of equipments related to certain technologies are difficult to assess due to the limited number of parties dealing with the technology. However, this will be done to the extent possible.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 28th January, 1977]

#### Recommendation (Sl. 70, Paras 6.134 to 6.135)

The Committee feel that the guidelines laid down by Government in regard to compulsory channelising of imports through the collaborators or through sources specified by them should be followed in all cases and no conditions or restrictive clauses which seek to deny freedom to the Indian parties in the matter of purchase of materials or machinery at internationally most competitive prices may be accepted. If any deviation, from such guidelines is deemed necessary in public interest such deviations should be specifically got approved at the highest level.

#### Reply of Government

Guidelines have been issued to the enterprises that there should be no stipulation that raw materials, components etc. will be obtained only from the foreign collaborator. The Indian party should have freedom of choice in this regard vide BPE O.M. No. 35/1/73-BPE/MM dated 14-11-74.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 2-2-1977]

#### Further information called for by the Committee

Please furnish a copy of the guidelines[instructions]circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (vide Appendix—I).

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/77-BPE/MM dated 1st June, 1977].

**Recommendation (Serial No. 71, Paragraph 6.136)**

The Committee also suggest that Government and public undertakings should ensure that detailed specifications and quality of materials and alternate processes and sources are invariably spelt out in all the agreement so that the public undertakings are not tied down to once source or one type of raw materials and can choose the right type of raw materials from a wider field in the interest of expeditious and economic implementation of the project. As research and development wings attached to different public undertakings are required to concentrate on import substitution it should be possible to evolve standard specifications for the different kinds of raw materials used or usable as also speed up the process of indigenisation so as to reduce to the minimum the outgo of foreign exchange. There should also be greater coordination between the related undertakings working in the same sector of industry administrative Ministry and the DGTD so that information about such standards and specifications are readily available and could be put to best use of while finalising collaboration agreements.

**Reply of the Government**

The recommendation is accepted. The role of research and development undertaken and sustained by an undertaking will be of considerable help in drawing specifications for equipments related to the future requirements through collaborative arrangements.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated the 28th January, 1977].

**Recommendation (Serial No. 72, Paragraphs 6.166 to 6.167)**

The Committee find that the contracts entered into by some public undertakings did neither clearly spell out the liability of the collaborators in respect of quality, timely and trouble free operation and guaranteed level of production nor for extension of the period of guarantee on account of delays in supply of drawings, designs data, equipment etc. The Committee are surprised that omission of im-

portant provisions regarding performance guarantee by Government before approval to these foreign collaboration agreements was accorded. The Committee stress that clear responsibility and liability of the foreign collaborator for proving performance of the equipment/system at his own cost before final payments are released should invariably be provided in each, foreign collaboration agreement. The administrative Ministry concerned and the FIB should in particular ensure that adequate provisions in this regard is included in the agreement before it is approved and signed.

**Reply of Government**

Guidelines have been issued by the Bureau of Public Enterprises to the Undertakings vide O.M. No. 35(1) |73-BPE|MM, dated 14-11-1974 para 23(a). In dealing with foreign parties, the method of enforcement would have to be carefully pre-determined.

[Ministry of Finance (Bureau of Public Enterprises O.M. No. 35|1/76-BPE/MM dated the 28th January, 1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL|012|BPE|MM, dated 9th May, 1977. One copy of the guidelines is attached herewith (vide Appendix—I).

[Ministry of Finance (Bureau of Public Enterprtses) O.M. No. 35|1/77-BPE/MM dated 1st June, 1977]

**Recommendation (Serial No. 73, Paragraphs 6.168 & 6.169)**

From the information regarding the contracts signed by various Undertakings for supply of equipment etc. (other than those for consultancy agreements or for complete systems) the Committee find that there is no uniformity in regard to the point of time from which the period of validity of the performance guarantee given by the Collaborator is counted.

The Committee have come across cases where because of delays in the supply/erection of indigenous equipment (IPCL-Propane compressor), lack of power supply (FACT-3rd stage expansion) etc.

for which the foreign collaborators could not be held responsible, the period of guarantee expired before the project was ready for commissioning and in such cases the performance guarantee lost all relevance and as happened in the case of FACT (3rd stage expansion) the undertaking had to get the equipment rectified on its own. They feel that the point of time from which the guarantee period should be counted is of primary importance, the scheme of performance guarantee would be illusory if the period is fixed without any relation to reasonable period over which the performance can be tested. The agreement should clearly stipulate that the liability of the foreign collaborator for proving performance shall stand for a mutually agreed period which may start from the date when the plant is commissioned and not when the plant equipment is despatched or some parts of it are erected. The period should be long enough to test the quality, capacity and endurance of the plant and equipment under full pressure and the plant authority should physically operate the plant under full pressure on a sustained basis for the stipulated period before accepting the equipment and releasing moneys on account of final payment.

**Recommendation (Serial No. 74, Para 6.170)**

The performance guarantee should cover not only the performance of individual plants and machinery, quantity/quality of products but also the performance of the system as a whole for a fairly long period depending upon the nature of collaboration.

**Recommendation (Serial No. 75, Paras 6.171—6.173)**

The Committee also suggest that in case there is some delay in proving performance after the stipulated date due to factors for which the collaborator may be responsible, the period of guarantee should automatically stand extended by corresponding period of delays and a provision to this effect should be made in the agreement itself.

The Committee feel that it should also be made categorically clear in the agreement that rectification of defect/deficiency in the quality or capacity of an equipment or plant detected in performance test and even replacement of equipment, if found necessary, would be done at the cost of the collaborator and all the additional expenditure on stay of foreign experts, freight etc., would be borne by the foreign collaborator.

The Committee also feel that the liability of the foreign collaborator should not end with proving the performance of the plant and

equipment within the guarantee period. Apart from performance, the quality of equipment is equally important and can be proved only after it runs for a sufficiently long period. They are of the opinion that if after the expiry of the guarantee period, but within a period to be stipulated thereafter there is a break-down of equipment due to any manufacturing defect or if it is discovered that the materials used in the fabrication or assembly of equipment or plant is below specifications, the collaborator should be held accountable for supplying equipment/plant made of such defective material and thus violating the terms of agreement. The Committee would like Government to examine this aspect in depth and explore the possibility of including a suitable provision in the agreement in this regard to guard against equipment of sub-standard quality being foisted on the public undertakings.

#### **Reply of Government**

Government accept the recommendations. Guidelines have been issued that the performance guarantee bond should clearly indicate the liability of the Collaborator/Consultant for satisfactory performance and due fulfilment of the contract in respect of quality faultless operation and level of production etc. *vide* O.M. No. 351/73-BPE(MM) dt. 14-11-74 para 23(a). Further, detailed instructions/guidelines would be issued to the all concerned.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM dated 2-2-1977]

#### **Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

[LSS No. 25-PU/76 dated 24-2-77 & 5-3-77]

#### **Further reply of the Government**

Guidelines have been issued *vide* O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith (*vide* Appendix—).

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/77-BPE/MM dated 1st June, 1977]

#### **Recommendation (Serial No. 76, Paragraph 6.204)**

The Committee would suggest that it is desirable to include a provision in all collaboration agreements that a collaborator would

be responsible to pass on the benefits of improvement in the know-how effected by them to the Indian parties during the currency of the agreement.

### **Reply of Government**

Government accept this recommendation. The letter of approval for foreign collaboration will suitably be amplified to take care of the Committee's recommendation.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1/76-BPE/MM dated 29th November, 1976]

### **Recommendation (Serial No. 77, Paragraphs 6.232 to 6.234)**

The Committee feel that it is in interest of the undertaking that a clause regarding fore-closure of the contract in the event of the unsatisfactory performance by the collaborator may be suitably included in the collaboration agreements under specific conditions. The agreement may also include definite terms of settlement with the collaborator in cases of such premature termination so as to avoid any ambiguity in such an important matter. The Committee suggest that a standard clause as far as possible in this regard may be evolved and suitable guidelines issued to the undertakings.

### **Reply of Government**

Guidelines have been issued to the Public Undertakings by the Bureau of Public Enterprises *vide* O.M. No. 35(1)|73-BPE|MM, dated the 14th November, 1974 Paragraph (33).

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|1/76-BPE/MM dated the 28th January, 1977]

### **Further information called for by the Committee**

Whether Government have evolved a standard clause for inclusion in agreements with collaborator regarding fore-closure of the contract. If so, please furnish details.

[LSS No. 25-PU|76, dated 24th February, 1977]

### **Further reply of the Government**

Guidelines have been issued to the Ministries/Public Enterprises that there should be, a clause for premature termination of agreement in case where the work is found to be unsatisfactory or not suitable. BPE O.M. No. GL|012|BPE,MM, dated 9th May, 1977, para 37 refers.

It is felt that it is difficult to evolve a standard clause because the terms and conditions would differ from case to case.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35]  
1/77, dated 1st June, 1977]

### **Comments of the Committee**

(Please see Paragraphs 1.41 to 1.47 of Chapter I of the Report).

#### **Recommendation (Serial No. 78, Paras 6.245 to 6.247)**

The Committee note the diversity of the practices followed by the undertakings in regard to the aspects for which provision for recovery of liquidated damages is made in the agreements. The Committee are also not sure of the comparative effectiveness of the legal implications of each one of the methods, namely, compensation, penalty, linking of payments with performance and termination of contract etc. and the extent to which they have proved useful in actual practice. They would like Government to examine the *pros and cons* both from the legal and functional angles of the different aspects and the methods of provision of recovery of liquidated damages and spell out the comparative advantages and dis-advantages in different situations for the guidance of the undertakings.

The Committee also feel that absence of provision for liquidated damages in the agreements is likely to erode the sense of urgency and lead to casualness in approach on the part of the foreign collaborators which might not be in the overall interest of the undertakings. The Committee would like Government to examine whether it would be desirable that in Government to Government agreements a provision for liquidated damages etc. could be included in the agreement itself or some other mechanism should be provided to ensure that the foreign collaborators do not escape responsibility for delays in the discharge of their obligations under the agreements.

### **Reply of Government**

Government accept the recommendation. The comparative effectiveness of the legal implications of each one of the methods of liqui-

dated damages and the desirability of a provision for liquidated damages in Government to Government agreements would be examined.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35|  
1/76-BPE/MM dated 26-2-1977]

**Further information called for by the Committee**

Please indicate when the matter will be examined.

[LSS No. 25-PU/76 dt. 5th March, 77]

**Further reply of the Government**

Necessary guidelines have been issued *vide* O.M. No. GL/012|  
BPE/MM, dated 9th May, 1977. Para 28 refers.

[BPE No. 35|2|77-BPE(MM), dated 1st June, 1977]

**Recommendation (Serial No. 79, Paragraphs 6.248 to 6.250)**

The Committee feel that the question of fixing a ceiling for liquidated damages cannot be determined in isolation but it should have a relationship to the loss in terms of value to which the undertaking may be put to, on account of delays in the discharge of the responsibility envisaged in the agreement in regard to the supplies and other aspects like delays in commissioning of the plant, commencement of production etc. The Committee would like the Government to study this matter in depth in the context of the commercial practices obtaining in India and abroad and suggest specific and enforceable provisions in regard to the quantum of liquidated damages for the benefit of the undertakings. The Foreign Investment Board and the administrative Ministries should also make sure that the suggested provisions are actually incorporated in the collaboration agreements before they are finalised.

**Recommendation (Serial No. 80, Paragraph 5.251)**

The Committee also recommend that once the amount of liquidated damages is determined, it should be recovered from the amounts payable to the collaborators as and when due and may not be postponed till the final payments become due to the collaborators.

### **Reply of Government**

Government accept the recommendation. Necessary guidelines would be issued to Ministries/Public Enterprises. However, it may be stated that some of the reasons for which turn-key projects were allowed are:

- (i) early completion of the project and fixing up the complete responsibility.
- (ii) utilisation of foreign credits; and
- (iii) where technology was new or there was substantial saving in overall costs and time.

By and large the execution of turn-key projects had been satisfactory.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-1/76-BPE/MM dated 26-2-1977]

### **Further information called for by the Committee**

Please indicate if any evaluation has been made in this regard; if so, results thereof.

Please also furnish a copy of the guidelines.

(LSS No. 25-PU/76 dated 5-3-1977)

### **Further reply of the Government**

Ministries/Government Departments have been advised to take action vide O.M. No. 35/1/77-BPE/MM, dated 12th May, 1977 (copy attached).

Guidelines have also been issued covering this aspect vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. Para 21(a), (b) & (c) refers. (Appendix I).

[Ministry of Finance Bureau of Public Enterprises) O.M. No. 35/1/77-BPE/MM dated 1st June, 1977]

### **Recommendation (Serial No. 85, Paragraphs 7.22 to 7.23)**

The Committee need hardly point out that if the royalty is linked to the value of production or sale there is every likelihood of the amount or royalty increasing as a result of rise in domestic prices on account of extraneous reasons. It is, therefore, desirable to relate royalty as specified amount per unit of production which

is determined having regard to the landed cost of the unit (excluding duty, freight, packing, commission, etc. charges) irrespective of the source of procurement. This would ensure collaborators interest in increasing production while the country would not have to pay more than what is called for in terms of ex-factory price of the unit in the international market.

### **Reply of Government**

According to the existing policy normally royalty is expressed as a percentage of the ex-factory selling price of the product, minus the landed cost of the imported components including ocean freight, insurance, custom duties payable thereon, etc. In appropriate cases the alternative of expressing royalty as a fixed amount per unit of production will also be considered, specially where the Indian prices are expected to be very high as compared to the international price or there is a possibility of substantial secular increase in the price of the product.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM, dated 29th November, 1976]

### **Recommendation (Serial No. 86, Paras 7.43 to 7.44)**

The Committee note that according to the Policy Guidelines issued by the Government while royalty payments for technical collaboration are subject to Indian taxes, lump sum payments for import of drawings, documentation etc. and other forms of know-how will be subject to "applicable Indian taxes". The Committee are informed that while there is no difficulty in regard to royalty payments which are subject to Indian taxes, difficulties had been experienced by the Public Undertakings about the interpretation of the words "applicable Indian Taxes".

With a view to safeguarding the interests of the revenue it has been stated that certain clarifications have been issued by the Ministry of Finance in October, 1975. The Committee need hardly point out that the clarifications should have been issued many years earlier so that the public undertakings, the foreign collaborators and all others concerned knew more precisely the incidence of taxation and the amount they would have to remit on that account. The Committee would like the Public undertakings to keep carefully in view the guidelines in this regard while finalising the foreign collaboration terms to obviate any scope for misunderstanding on this account at a later stage.

**Recommendation (Serial No. 87, Para 7.45)**

The Committee are informed that the question whether the words "subject to applicable taxes" used for lump sum payments can be concretised is under the examination of the Ministry of Finance. The Committee would urge that the Ministry of Finance should take an early decision in this matter and notify the same to the public undertakings and the administrative Ministries so that the undertakings are clear about their responsibility in this regard and no uncertain liability is cast on them. The Committee note that many developing countries are not in favour of granting full tax exemption to foreign collaborators for it is obvious that tax on the income has to be paid in one country or the other. This aspect is also bound to come up at the next UNCTAD Conference scheduled to be held in Nairobi in May, 1976 to consider the subject of Code of Conduct For Transfer of Technology. The Committee recommend that Government may review the position during the course of the year in the light of these developments so as to remove all elements of ambiguity and uncertainty. The Committee would like to be informed of the action taken within six months.

**Reply of Government**

Amendments have been made in the Income Tax Act, 1961, by the Finance Act, 1976, which have simplified and rationalised the determination of tax liability under the foreign collaboration agreements.

The amendments to Section 9, new section 44D, 115A of the Income Tax Act, 1961 particularly deal with this aspect.

A copy of the explanatory notes on the provisions relating to direct taxes in the Finance Act, 1976, is enclosed.

Necessary instructions/guidelines would be issued to the Ministries/Public Enterprises.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 351/76-BPE/MM dated 26-2-1977]

**Further information called for by the Committee**

Please furnish a copy of the guidelines/instructions/circulars issued.

(LSS No. 25-PU/76 dated 24-2-77 & 5-3-77)

**Further reply of the Government**

Guidelines have been issued vide O.M. No. GL/012/BPE/MM, dated 9th May, 1977. One copy of the Guidelines is attached herewith. (Vide Appendix—I).

(BPE No. 35/1/77-BPE/MM, dated 1st June, 1977)

**Recommendation (Serial No. 88, Paras 8.17 to 8.19)**

The Committee need hardly stress that there should not be any provision banning the public undertaking from sublicensing the technical know-how as any restriction in this regard will only entail repetitive import of technology and accentuate multiplicity of collaboration with avoidable outgo of foreign exchange. The Committee have dealt with this aspect in a separate Chapter of this report.

The Committee feel that inclusion of clauses imposing restrictions on purchase of plant and equipment, spares, raw materials, components etc. from/through the collaborator is an indirect compulsion on the entrepreneur to go in for compulsory imports of plant and machinery and should not be agreed to in the interest of securing them at the most competitive international prices.

**Reply of Government**

Government accept the recommendation. Guidelines/instructions have been issued to the Ministries/public enterprises by the Ministry of Industrial Development in 1974-75. Guidelines have also been issued by B.P.E. that the Indian Party should be free to sub-liscence the technical know-how/product design/engineering design under the agreement to another Indian Party on terms to be mutually agreed to by all the parties concerned including the foreign collaborator and subject to the approval of Government O.M. No. 35/1/73/BPE/MM, dated 14th November, 1974 refers.

Regarding para 8.10 guidelines have already been issued to the Ministries/Public Enterprises that a clause should be provided for the right to procure components/equipments directly from the suppliers in case the prices quoted by such suppliers are lower than those quoted by the collaborators. O.M. No. 35/1/73/BPE/MM, dated 14th November, 1974 para (11) refers.

[Ministry of Finance (Bureau of Public Enterprises)  
O.M. No. 35/1/76-BPE/MM. dated 26-2-1977]

**Recommendation (Serial No. 89, Paras 8.20 to 8.23)**

The Committee agree that restriction on exports is detrimental to national interests and may not be allowed unless there are overriding considerations. The Committee feel that where the foreign collaboration is being sought mainly for export purposes, any restriction on exports will defeat the very purpose of the foreign collaboration and should not be accepted except where the countries to which the restrictions are sought to be applied are not the ones for which the Indian parties intend to cater.

The Committee feel that since India has reached a significant stage in the development of manufacturing capability and has in fact become exporter of not only sophisticated engineering goods but also of technical know-how, Government/Public Undertakings should ensure that restrictions which come in the way of natural growth of exports to potential markets should be avoided to the Maximum extent possible.

**Reply of Government**

The recommendation is accepted. Guidelines have been issued by BPE vide O.M. No. 351/73/BPE/MM, dated 14-11-74, enclosure (extracts from O.M. No. ID&FC-5(26) 68-II, dated 25-1-69 para. (XI) that with a view to promote exports of non-traditional products the following points should be kept in view:—

- (a) When existing collaboration agreements which limit export franchise, come up for renewal, the restrictions should be totally eliminated or substantially removed. In the event of the foreign collaborator not agreeing to this course of action, renewal of agreements should not be permitted;
- (b) Further agreements should be stringently scrutinised to eliminate export restrictions, the approach being that the agreements should allow free export to all countries except perhaps the country of the foreign collaborator or the countries where the foreign collaborator is having joint venture in the same field of production;
- (c) In low-priority or non-essential fields of production where foreign collaboration is not generally allowed, a relaxation be made where the foreign collaborator agrees to undertake a major share of the production for export; and

(d) the existing policy of not allowing foreign collaboration in trading activities may be relaxed where such collaboration is exclusively aimed at augmenting our export sales.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 26-2-1977]

**Recommendation (Serial No. 90, Paragraphs 9.18 to 9.23)**

The Committee find that according to the Government's policy all foreign collaborations should normally be subject to Indian laws and arbitration by organised bodies like International Chamber of Commerce can also be provided for in specific cases with the approval of Government. In 19 out of 74 foreign collaboration agreements in Public Undertakings analysed by the Committee, the venue of arbitration has been outside the country; in 19 cases, the law applicable for arbitration is stated to be Indian Arbitration Act and in 36 cases, the arbitration was to be according to International Chamber of Commerce regulations. In 5 cases, the arbitration would be according to the law of the collaborator's country. In case of 2 agreements, the disputes are to be settled by a court of arbitration to be constituted according to the law of a country independent of the parties to the agreement. Where the collaboration agreement has been the result of Inter-Governmental agreements, the matters are left to be settled according to such Inter-Governmental agreements.

The Committee feel that the Indian Arbitration Act is more definitive and it should normally be possible to include the provision for arbitration in the collaboration agreements in conformity with the Indian Arbitration Act. However, in cases of collaboration agreements for sophisticated technology where the collaborators may be few, the arbitration may have to be under the rules and regulations of International Chamber of Commerce, if so insisted upon. Even in such cases the Committee would like that the venue of arbitration should as far as possible be India.

The Committee recommend that collaboration agreements should clearly specify the arbitral forum and the law applicable in the case of arbitration so that difficulties do not arise about interpretation of the provisions relating to arbitration in the collaboration agreement. The Committee would also like Government to consider the feasibility of making suitable provisions in the agreements by which technological disputes are resolved during the subsistence of the

agreement and the need for legal arbitration or judicial settlements which are fairly long drawn out processes involving uncertain liabilities are minimised.

### **Reply of Government**

The recommendation of the Committee is accepted. According to Government's policy normally a stipulation is made in collaboration agreements that the agreement is subject to Indian laws. Arbitration by organised bodies such as International Chamber of Commerce, etc., can also be provided in specific cases with the approval of Government.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 26-11-1976]

### **Recommendation (Serial No. 91, Paras 10.17—10.20)**

The Committee find that only the Reserve Bank of India have undertaken two comprehensive surveys about the working of the foreign collaboration arrangements in the country. While these have served a useful purpose in giving an overall view, the Committee feel that a detailed survey and analysis has to be carried out at the national, sectoral and unit level in order to learn from the experience of working of the foreign collaboration agreements with different collaborators and countries. It would be pertinent in this context to recall that in evidence before the Committee, it has been emphatically stated by the Managing Directors/Chairmen of leading public undertakings that technology and know-how received from Soviet Russia and other socialist countries has largely fulfilled the objectives and that the performance of the units set up has been very satisfactory. The Committee note particularly the element of dedication which has been ascribed to the Soviets in the matter of transfer of technology and in helping the public sector units to absorb technology and reach self-reliance. The problem of selection of technology and collaborators is, however, complex in the case of other countries for in India there is no centralised agency or data bank where information may be readily available to facilitate the selection of the most suited technology and the best collaborators for project.

The Committee, stress that Government should devise suitable arrangements for evaluation of the foreign collaboration agreements

on national, sectoral and unit basis with particular reference to the following considerations:

- (i) The extent to which the terms of agreements have been fulfilled in letter and spirit and the readiness shown by the foreign collaborators to resolve unanticipated problems and to adhere to the time schedule for delivery of drawings, designs, equipments etc.
- (ii) Whether the production capacity has been developed as per the prescribed time frame upto the installed level and whether the warranted performance has been sustained over a period.
- (iii) Quality of service after installation with particular reference to the spirit of co-operation and helpfulness in resolving problems of operation and maintenance and sharing knowledge about advances in the relevant field of technology and know-how which would help the unit to attain higher production or effect reductions in cost.
- (iv) Concrete help given in import substitution with particular reference to raw materials, machinery and equipment.
- (v) Quality and quantity of production with reference to figures mentioned in the project report.
- (vi) Acceptability of the product by the users in India.
- (vii) Potentiaility for export and the extent to which it has been realised.
- (viii) Assistance given in setting up maintenance schedules and in arranging supply of spare parts on assured basis and at competitive prices and management of inventories.
- (ix) Setting up of a management information system in the interest of effective control over the unit.
- (x) Setting up of the Planning Research and Development Division and the concrete help given in the absorption of technology and know-how and making it self-reliant and self-generating.

The Committee suggest that while institutional arrangements may be made for critical study and appraisal of foreign collaboration agreements which have already run their course, such monitoring

should be done in future concurrently so as to derive meaningful information and data for use while negotiating and finalising foreign agreements.

The Committee also suggest that the information on the above mentioned points and other related matters may be suitably brought on the data-bank under DGTD for providing ready reference and guidance in the matter of selection of foreign collaborators and technology. The Committee attach great importance to the above recommendations and would like to be informed, within six months, of the concrete measures taken by the Government in pursuance thereof.

#### **Reply of Government**

A technology exercise has already been undertaken by DGTD in respect of units having on-going foreign collaborations to study the advantages taken of such collaborations, attempts made at absorption of technology and know-how obtained, the adaptations, and improvements effected etc., which will thereby help to provide a shelf of information on:—

- (a) Possibilities of horizontal transfer of technology and to avoid further import particularly in areas where multiple import of technology has been previously permitted;
- (b) Possibilities of export of technology industry-wise and unit-wise where absorption has been effective;
- (c) Cost comparisons of various technologies in end-product pricing and other advantages in export generation, competitive strengths etc. the problem areas in production and exports due to technology in-puts and which will yield further useful data on foreign collaborations which may be of interest/use in plugging the loop-holes on acquisition, agreements, execution, choice etc.;
- (d) The endeavour of Indian parties in absorption, adaptation and improvements to avoid repetitive imports for same products, viz., R&D effort, help by collaborators, indigenisation, use of materials, training of personnel, quality etc.;
- (e) Identification of units which can take role of lead R&D Units for further work on centralised basis with cooperation of other organisation on areas of gaps/further improvements in light of their competence, facilities etc.

(to be co-related with the work of Development Councils/ Panels) on their coupling at an early stage with import of technology; and

(f) To study strengths and weaknesses of indigenous technology where transferred, commercialised/under commercialisation from the technical, transference, techno-economic aspects which will provide guidance to NRDC, R&D, Deptt. of Science and Technology|Consulting firms through Coordinating Committee.

Dialogues have been started with the industry from the month of August, 1976 and detailed in-put information will start flowing in from the beginning of October leading to detailed analysis. The dialogue has been completed in respect of following industries:—

- (a) Industrial Machinery—(Sugar Mill Machinery, Cement Mill Machinery, Boilers, Burners, Pulp and Paper Machinery, Mining Machinery, Steel Plant Equipment, Chemical Plant and Equipment, Conveyers, Metallurgical Machinery, Gears, Rayon and Synthetic Fibre Plants, Air Separation Plant, Dairy Machinery, Spray Drying Plants, Weighing Machinery);
- (b) Automobile and Automobile Ancillary;
- (c) Welding Electrodes;
- (d) Mild Steel Welded Pipes and Tubes;
- (e) Seamless Steel Tubes;
- (f) Tubular Structural and Fabricated Pipes;
- (g) Metallic Flexible Tubes;
- (h) Dyes.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-  
BPE/MM dated 20-2-1977]

#### Comments of the Committee

Please see Paragraphs 1.48 to 1.54 of Chapter I of the Report.

## CHAPTER III

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

#### Recommendation (S. No. 9, Paras 3.94 to 3.96)

The Committee feel that screening and evaluation of technology should first be done by a 'Lead Agency' in the public sector nominated for a particular field of industry or a 'nodal' agency for a particular technology with the assistance of DGTD and expert bodies like CSIR, and recommend the appropriate technology for consideration by Government which would evaluate the same through a technical committee of experts drawn from DGID, CSIR, NRDC, Department of Science and Technology before a final decision of the choice of appropriate technology is taken by the Foreign Investment Board. As already recommended in paragraph 2.69 *ante* the system in FIB should be so geared up so as to minimise delays in approval of foreign collaboration proposals.

#### Reply of Government

An inter-disciplinary group has already been established by the Government to screen and evaluate the technology and to make a joint recommendation to the Foreign Investment Board. It is felt that it is not necessary to involve public sector agencies in this process as a 'Lead' or 'nodal' agency. Their advice will continue to be sought whenever necessary.

[Ministry of Finance (Bureau of Public Enterprises) O.M. No. 35/1/76-BPE/MM dated 26th November, 1976]

#### Further information called for by the Committee

Please furnish a copy of the composition of inter-disciplinary group set up to screen and evaluate the technology indicating the details of its functions, when it was set up and cases so far dealt with and finalised.

[LSS—O.M. No. 25-PU/76 dated 24th Feb. 77]

#### Further reply of the Government

A technical evaluation committee has been constituted under the Chairmanship of Brig. B. J. Shahaney, Secretary (Technical Development) in Oct., 1976.

A copy of the O.M. No. FCI(6)/76-CCC cell dated 16-10-76 together with a copy of the subsequent amendment of 7-3-77 on the Constitution of the Committee is enclosed (Vide Appendices VIII & IX).

The functions of the committee have been stated in the above mentioned circulars.

Since the constitution of this committee, 192 cases were referred to them. Of these, 152 were finalised till Feb. 1977.

[O.M. No. 35/1/77-BPE(MM)dated 28th February, 77]

**Recommendation (Serial No. 48, Paragraph 5.73)**

The Committee would like to emphasise that there should be no question of import of technology by a private sector where the know-how for the product already exists in the public sector.

The Committee find while generally no limitations are placed by foreign collaborators making available the know-how and technology to any other party in India, restrictions are imposed on certain patented processes where transfer could be effected only with the consent of the collaborator at probably reduced cost.

**Reply of Government**

Foreign Investment Board invariably takes into account the production capacity and quality of technology of the product in a public sector unit while considering foreign collaboration proposals by a private sector unit in the same field. Administrative Ministries in-charge of Public Sector Undertakings are represented on the Foreign Investment Board, and are invariably consulted in the matter before a final decision is taken. It would not be in the overall interest of the industrial development of the country to adopt rigid approach in this matter.

[Ministry of Finance (Bureau of Public Enterprises) O.M.  
No. 35/1/76-BPE/MM dated the 29th November, 1976]

**Recommendation (Serial No. 50, Paragraphs 5.76 to 5.77)**

The Committee note that payments for patents are generally considered as part of the overall collaboration agreements but in cases where only patent right are required to be obtained; these are procured on a lumpsum basis. They are informed that normally foreign collaborators are not agreeable to grant patent rights on outright or exclusive basis. In Chemical manufacturing plants; patents are not purchased on outright basis as they entail a very high initial payment. The Committee are informed that in a large number of agreements entered into by Public Undertakings there is no limitation on the foreign collaborators making available the same patent right or trade-marks to another party in India.

The Committee feel that since Government have the regulatory powers, they should ensure that where patent rights have been obtained in public sector there should be no question of any other unit in private sector getting these patent.

**Reply of Government**

On examination of foreign collaboration application from a private sector unit, if it transpires that a public sector undertaking is holding patent rights for the same items from the same foreign collaborator, the DGTD or the administrative Ministry brings out this point for consideration of the Foreign Investment Board whether it is necessary to allow another Indian party to purchase the patent rights from the same foreign collaborator. Foreign Investment Board takes into consideration the views of the various parties including the views of the concerned public sector unit while taking a decision bearing in mind the best developmental interests of the country.

[Ministry of Finance (Bureau of Public Enterprises) O.M.  
No. 35/1/76-BPE/MM dated the 29th November, 1976]

## **CHAPTER IV**

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

**—NIL—**

## CHAPTER V

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

—NIL—

NEW DELHI;

March, 21 1979.

Phalgun, 30, 1900 (Saka).

JYOTIRMOY BOSU,

Chairman,

Committee on Public Undertakings.

---

---

---

**A P P E N D I C E S**

---

---

## APPENDIX I

No. GL/012/BPE/MM

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

**Bureau of Public Enterprises**

**(Materials Management).**

(Vide Replies to Recommendation Nos. 3, 4, 6, 8, 15, 17, 18; 19; 29; 30, 31, 33, 35, 43, 46, 52; 59; 60; 61 62 63 64 65 66 67 70 72 73 74 75 79, 80, 81, 82, 83 86 and 87).

Mayur Bhavan, Connaught Place,  
New Delhi, the 9th May, 1977.

### OFFICE MEMORANDUM

**SUBJECT:** Scrutiny and approval of agreements involving foreign collaboration by Public Enterprises.

Finance Ministry vide O.M. No. 9(136)/69-BPE/MM dated 11th June, 1971 issued certain guidelines for Public Enterprises on the above subject. These guidelines were drawn up in consultation with the Ministry of Law and incorporated general principles for facilitating processing of foreign investment|collaboration cases.

The Committee on Public Undertakings (1970-71—Fifth Lok Sabha), in their report on Hindustan Steel Ltd., desired that B.P.E. should undertake a study in respect of foreign collaboration agreements and issue further guidelines on the subject. This study was conducted and necessary guidelines issued vide O.M. No. 35(1)/73-BPE(MM) dated 14th November, 1974.

The Committee on Public Undertakings (1975-76—Fifth Lok Sabha) undertook a detailed and comprehensive study on foreign collaboration agreements and have made recommendations on various aspects of foreign collaboration in their 89th report. Government have accepted most of the recommendations. Consequently, the guidelines issued earlier needed revision. The revised guidelines taking into consideration the recommendations made by the Committee on Public Undertakings are enclosed herewith. The points

which were covered in Circulars O.M. No. 35/1/73-BPE(MM) dated 21st April, 1975, and O.M. No. 35/1/76-BPE(MM) dated 9th August, 1976, have also been included in these guidelines. In addition, relevant extracts from O.M. No. ID and FC-5(26) |268-II dated 25th January, 1969 are also enclosed.

Administrative Ministries|Public Enterprises are requested to ensure that the various points referred to are properly covered in foreign collaboration agreements and the interest of the Government|Public Enterprises is adequately safeguarded.

The Ministry of Industry, etc. are requested to advise all Public Enterprises under their administrative control accordingly.

(M. L. MONGLA)  
Dy. Adviser (MM)  
Tel. No. 42723

To

- (i) Ministries/Departments of the Government of India.
- (ii) Public Enterprises.

Enclosure to Finance Ministry's O.M. No. GL/012/BPE/MM dated 9-5-77.

**Guidelines in connection with foreign collaboration agreements**

**1. Basis of foreign collaboration & selection of technology**

(a) Foreign collaboration ought to be in the field of high priority and areas where technical know-how, materials and talents are not available indigenously. Where the import of technology is absolutely necessary, the same should be a proven process. Ministries/Public Enterprises should be clear about the exact nature and type of technology required, the sources of availability of such technology and the resources available for the purpose. They should have knowledge about the technology and the collaborator in order to secure the best terms in public interest. The Ministries|Public Enterprises should consult the Technology Data Bank set up in the office of the DGTB which would provide the information about the technology and the collaborator.

(b) In making the choice of technology care should be taken to safeguard against obsolescence and incompatibility to ensure that the technology selected is not only most modern but appropriate to the Indian conditions. The technology should be correlated with the

locally available inputs and with the present projected demands as co-relation with the demand projection is important in determining the scale of production. There should be high degree of selectivity in the case of engineering industry, where the country has developed a technological base and expertise for manufacture of sophisticated equipment. The need for foreign collaboration in this sector should be scrutinised in greater depth after carefully assessing the existing capacity for developing second generation plants. Repetitive import of technology should be avoided as far as possible. Where it is considered necessary to go in for a different process technology because of the fast development in the field a careful cost benefit analysis of the import of such technology should be made before a decision to import a different technology is taken. Even if import of improved processes technology is allowed, it should be subject to the condition that production capacity would lead to a healthy competition with the existing unit and not to its closure.

(c) In the public sector, large capacity for manufacturing processing units has already been built up. For example, the Heavy Engineering Corporation, MAMCO, BHPV have the capacity to manufacture steel plants, large scale coal mines machinery and port handling equipment, machinery and equipment for petro-chemical and fertilizer industries etc. There should be meaningful coordination between these large machine manufacturing units and the processing undertakings so that indigenous manufacture of machinery and equipment undertaken with the aid of foreign technology and know-how where absolutely essential, could be taken up in an integrated manner so as to meet satisfactorily the requirements of the processing industry as well as the objectives of indigenisation.

(d) Public Enterprises must keep a careful watch on the improvements|developments in technology|know-how taking place elsewhere so as to avail of the facilities through the collaboration agreements.

## **2. Parties to the Contract**

(a) The principal party to the agreement should have the necessary expertise and proven experience in the field forming the subject matter of the contract and should not be dependent on other parties for its successful performance.

(b) In most cases the foreign collaborator will simultaneously have the role of the consultant as well as supplier, but at times there would be separate agencies for consultancy and supply. In such cases their role should be distinctly specified.

### 3. Selection of Consultants|Suppliers

(a) The foreign collaborator should be chosen on the basis of proven process technology and on the basis of his reliability to complete the work within the stipulated period.

(b) Inter-connected or subsidiary contracts should also be finalised at the same time as the main contract.

### 4. Purpose and scope of the contract

Purpose and scope of the contract should be defined clearly. If a project requires any change due to unforeseen circumstances after the consultancy agreement is signed, necessary enabling provision should be available for such changes, with a clause similar to the one as under:

"In the course of designing, both the supplier and the customer shall have the right to make alterations and additions in designs with due regard for latest achievements in engineering, design and technology, having intimated the other party and giving due justification therof. However, all alterations and additions entailing major changes in technical and economic characteristics and in the cost of the project shall be mutually agreed upon by parties."

### 5. Supply of Know-how

(a) The project may be broken into sub-elements to ensure that designs and processes are obtained from the most suitable manufacturers in the world.

(b) The improvements effected by collaborators to the designs|processes|equipments supplied by them under the agreement would be made available to the contracting Indian party.

(c) In cases, where machinery and equipment and technologies are imported from different sources., there should be stricter integrated planning and coordination with a view to obviating any difficulties in commissioning of the plants and putting to effective use the installed capacities and achieving maximum results.

### 6. Detailed working drawings & Specifications

(a) Supply of information and data on design and development including detailed drawings, design sheets, specifications and calculations by the consultants on a regular and continuous basis for a clearly specified period should be ensured.

(b) It has been experienced that supply of mere documentation by the collaborators has been impediment in transference and assimilation of the technical know-how of production processes. Therefore, supply of detailed design sheets, specifications and design calculations should be insisted upon.

(c) Relevant clauses should contain such details as quality of raw materials, specifications for substitute materials and alternative suitable processes etc.

#### *7. Payment of know-how fees*

Where the agreement provides for payment of know-how fees in instalments, sufficient interval may be allowed between instalments to permit completion of all formalities and procedural requirements.

#### *8. Limitation of the duties of consultants/suppliers*

The consultants recommendation shall not be mandatory in nature. The final decision in any matter, technical or economic, shall rest with the undertaking/Indian Government. The responsibility of the consultants *vis-a-vis* that of the management should be clearly laid down. The consultant should not have a free hand to commit the management of the undertaking without prior consultation.

#### *9. Specifications Rate Schedules, Quantities etc.*

Should be set out in detail and with precision, considering special conditions of contracts, if any, such as free supply of electricity, accommodation, taxes, duties etc.

#### *10. Supply of equipments|components and stores and their sources*

(a) Provide for the posting of an officer at the collaborator's works to advise and guide with regard to the indigenous availability of materials, implementation of Indian standards, safety and other requirements etc. while the designs are under preparation.

(b) Names of equipments|components|spares should be clearly specified to avoid vague expressions like standard Equipments etc. since disputes may later on arise over the interpretation of such expressions.

(c) No commitment for important clearance for any item should be made without prior consultation with DGTD.

(d) It should be ensured that detailed specifications and quality of materials and alternate processes and sources are invariably spelt out in all the agreements so that the public enterprises are not tied down to one source or one type of raw materials and can choose the right type of raw materials from a wider field in the interest of expeditious and economic implementation of the projects. There should also be greater coordination between the related undertakings working in the same sector of industry/administrative Ministry and the DGTD so that information about such standards and specifications are readily available and could be put to best use, while finalising collaboration agreements.

(e) Research & development wings attached to different public enterprises are required to concentrate on import substitution. They should evolve standard specifications for the different kinds of usable raw materials and also speed up the process of indigenisation to reduce to the minimum the outgo of foreign exchange.

(f) Public Enterprises should not buy the equipments through the collaborator when the required equipment of good quality is available from indigenous sources or where the collaborator does not himself manufacture the equipment in question but merely procures it from a subordinate supplier. Where, however, it is unavoidable to agree to channelise procurement of equipments through the collaborators. Ministries/Undertakings as far as possible should not agree to pay prices which are higher than the world market prices as tested through global tenders or through consultants or otherwise by comparison with the prices of similar or near similar items supplied by the same collaborator to other parties in India and abroad. The prices to be charged for the equipment, components and stores should not be left to the collaborators. Right to procure components/equipments directly from the concerned supplier ought to be provided in the agreement in case the prices quoted by such suppliers are lower than those quoted by the collaborators. The enterprises should examine carefully this aspect and resist any attempt by the foreign collaborator to supply equipments/materials at higher prices than the globe tender prices.

11. Item-wise price schedule where possible for the foreign equipments/components and stores

(a) Item-wise list of suppliers with prices would be useful to check whether the rates allowed to the contractor are reasonable. Pricing of the equipment by average weight should be avoided.

(b) Supply of components/equipments at cost plus a specified percentage of profit over the cost should be avoided as some of the companies do not agree to the detailed scrutiny of their costs or estimates by others.

#### 12. Schedule of indigenous equipments/components and supplies

(a) Maximum indigenous participation in design and manufacture should be ensured.

(b) Break-up of sub-assemblies and component prices may be indicated in the contract itself.

(c) It might be advisable to first settle the prices of the main equipment on a competitive commercial basis and then to see that the total of prices of sub-assemblies and components are as close to the price of the main equipment as possible.

(d) It should be ensured that the schedule of delivery of indigenous equipments synchronises with that of the imported equipments to avoid delays in erection and commissioning of plants due to non-supply of indigenous equipments in time.

#### 13. Sequence of delivery of equipments

Wherever agreements provide for supply of plant & equipments the sequence of delivery of equipments should be specifically indicated in the agreement and schedule of delivery should be fixed after taking into account the time fixed for erection and commissioning of the plant.

#### 14. Variations in the conditions for supply of equipments, components, spares and stores

(a) Break-up of the prices should be indicated in regard to the payment of freight, siding charges, handling charges, sales tax, terminal taxes, etc.

(b) 'Weight Variation' clause should be included in the agreements so that the tenderers may not exaggerate the quantities of materials with a view to making their offers more attractive.

(c) Cash discount, if any, received by the suppliers/collaborators should be taken into account while computing the reimbursement due to them.

(d) For the total quantity of steel or other materials required for the work, certificates from the Engineers of the Undertaking should be necessary.

**15. Pre-shipment Inspection|testing by independent Inspection Agencies**

Agreement should provide for pre-shipment inspection/testing clause by independent inspection Agencies covering the inspection of materials before despatch.

**16. Shipping Documents**

In the event of delays in despatch of shipping documents or discrepancies therein the suppliers should be responsible to compensate the customers for losses/extra expenses, if any.

**17. Provision of initial spares and return of spares supplied in excess of requirements**

(a) Provision should be included for supply of spares initially at least for a period of two years to assist the undertaking to overcome its difficulties in regard to maintenance in the initial stages. The list of spares should be carefully scrutinised to ensure that the spares are absolutely essential. The enterprises should develop the spares through their Research and development wings on the basis of indigenously developed designs and drawings concurrently with the subsistence of collaboration agreement so that the necessity of importing these spares at a later stage for purposes of maintenance may not arise.

(b) Collaborators should agree to take back the items|components| spares etc. supplied/arranged by them if they are found to be in excess of requirements within a period of say 3 to 5 years, particularly if such items have been obtained on the recommendation of the collaborators.

**18. Remuneration for Consultancy service**

(a) Payment of Licence fee may be split up into 2-parts—first half being payable for the grant of right to set up the plant including supply of drawings, design data etc. and the second half after commissioning of the plant.

(b) Some agreements provide that the last instalment of the licence fee would become payable within a specified period from the effective date of the agreement. In such cases if the completion of the project is delayed, the last instalment of fee becomes payable before the guarantee test-runs are held, with the result the licensor has no financial liability for non-fulfilment of guarantees, if the guarantee test runs are held beyond the period mentioned in the

agreement. To overcome this difficulty the licensor may be asked to (i) to extend the specific period as far as possible or (ii) to be responsible for the process guarantees even after the last instalment of the licence fee has been paid.

(c) In case of delay in execution or unsatisfactory performance in addition to the clause of liquidated damages etc. a right to postpone the payment of instalment could be secured.

(d) Fixation of remuneration as a percentage of the total cost of the project or as a percentage of the cost of plant and machinery, is open to objection as the incentive for economy in designing is lost thereby. Secondly, it would be difficult to know in advance what the commitments on account of the consultants' fees would be. Thirdly, it might result in unintended benefit on account of the increase in cost of work due to extraneous reasons like contractors' delays and failures. In order to avoid these difficulties, the fee as far as possible, when based on a percentage, should be calculated on the basis of the estimated cost and expressed in the consultancy agreement as a definite figure. If necessary, provision may be made for varying the figure by negotiation if the scope of the project is changed and as a result, a substantial change occurs in the nature of the work to be performed by the consultants.

(e) Where a fixed fee payable either in lump sum or in instalments is agreed to and where the consultants require a portion of the fee within a few days of the agreement being signed, it would be necessary to limit the payment to as small an amount as practicable. The payment of the remaining amounts may be made on instalments at different stages e.g. on the submission of the project reports, on the submission of the drawings and designs, during erection period and when the plant has gone into production and given satisfactory performance. If it would be necessary that the stage for the last instalment is such that in case of a serious defect or failure, it would be possible to withhold the last instalment. The quantum of the instalments, as far as practicable, should be related to the amount of work done.

(f) Certain facilities may have to be made available to the consultants in regard to residential and office accommodation, travelling allowances both from the parent country to India and within India, provision of vehicles, equipment, medical facilities etc. When assessing the remuneration, for incidence of such facilities should be clearly borne in mind.

(g) Some of the items of work may have to be done in the country, while others may have to be done outside. It is necessary, therefore that a clear indication in regard to both should be available so as to determine the quantum of remuneration. It would also be useful to include in the agreement a list of staff that would be posted within the country so that no confusion or dispute arises at a later stage. A part of the fee corresponding to the portion of the work to be done in India should be paid for in non-convertible Indian Rupees.

(h) The taxation aspects in respect of the remuneration, salaries etc. to be paid should be kept in mind and not left open.

(i) If materials are supplied to the collaborators/contractors for completion of the works, the issue rates' covering storage and departmental charges should be agreed upon in advance. This aspect should be finalised at the time of conclusion of the agreement. Tenders may be invited on the basis of the project supplying such materials and also on the basis of the contractor furnishing all the materials.

#### 19. Location of sites

Advice of the foreign consultants for the location of plants should be sought only in exceptional cases, since we have enough experience by now in setting up public undertakings. The functions of the planning and Development Units that have been set up in some of the projects also include studies in location. Occasion for seeking the advice of foreign consultant should, therefore, be confined only to such projects for which we have no experience at all.

#### 20. Duration of Agreement

(a) The agreement should be for a definite period which should be fixed on a realistic but strict basis according to the merits of each case in close consultation with the concerned enterprise, DGTB, National Commission on Science & Technology, Bureau of Public Enterprises etc. There should be built in mechanism by which absorption of technology is facilitated within the period of collaboration agreement. The Administrative Ministry should take steps to monitor the progress of collaboration at different stages right from the commencement and also undertake a critical mid-term appraisal of the progress of collaboration in close coordination with the Bureau of Public Enterprises DGTB & National Commission on Science & Technology with a view to take suitable remedial

measures in time so that the necessity of extending the period of agreement is obviated. The period of 5 years normally allowed for collaboration should not be taken for granted. It should be the endeavour of Public Enterprises to reduce the period of collaboration to less than 5 years and attain self-reliance at the earliest by fully absorbing and indegenising the technology & know-how.

(b) Ministries/Undertakings should make a critical review of such agreements, where the duration of agreement has exceeded the prescribed limit of 8 years with a view to find out the specific reasons for such a long duration. Extension of agreement beyond period of 8 years should be brought to the notice of Parliament.

## 21. Turn-key contracts

(a) Turn-key contracts should not be permitted as a matter of rule and exceptions, if at all, should be allowed very sparingly only in case of highly sophisticated projects for which suitable technical know-how may not be available in India or where a large volume of production is required within the shortest time to meet urgent demands. Even in such cases provision should be made in the contracts that Indian engineers and consultancy organisations, should be associated at various stages for doing jobs like detailed engineering, procurement services, fabrication of equipment, inspection, construction and commissioning so that dependence on foreign expertise and foreign exchange outgo is minimised.

(b) While approving the foreign collaboration, emphasis should be on the development of the indigenous know-how. Turn-key contracts have the disadvantage of stifling such development. The possibility of concealing design engineering cost in the price of equipment is also not ruled out.

(c) If, however, turn-key agreement has to be necessarily finalised the standing of the collaborators should be checked to ensure that effective coordination through them is possible.

## 22. Posting of technical specialists and provision of free supplies and services

(a) While calculating total remuneration for technical specialists, interpreters and other supporting staff, all the benefits like salary and allowances, medical facilities, housing, leave travel facilities and free conveyance should be taken into account.

(b) Provisions of free supplies and services to project contractors should be avoided as far as possible.

(c) Public enterprises should not normally agree to construction of any special type of quarters for technical specialists from the suppliers|contractors. ..

(d) For technical specialists, minimum number of family quarters may be agreed to. Most of the foreigners should be housed in hostel type accommodation or any residential house converted into hostel accommodation.

(e) As far as possible foreigners should be persuaded to use the officers' clubs constructed for the officers of the undertaking. If a separate club is insisted upon, it would be desirable to convert one of the houses into a club or add one or two rooms to the dinning hall of the hostel.

(f) In cases where the stay of foreign Experts is prolonged because of extension in completion of the project owing to limitation in the plant and equipments, a clear provision should be made for sharing of expenditure on Experts by Foreign collaborators under such circumstances.

(g) While deciding standards of accommodation and amenities for foreign experts, contents of this Ministry's circular No. 253-Adv (C) | Cir-42|68, dated 12th December, 1968 (copy enclosed) may be kept in view.

### 23. Booking of Air passages/Cargo.

Provision for Air travel of foreign experts and their families should be such that the journeys are arranged through Indian National Air Carriers. Similarly as far as possible booking of cargos should be made through Air India only. In this context this Ministry's circulars O.M. No. 46|1|76-BPE|MM, dated 17-3-76, 10-5-76 and 7-2-77 may be referred to.

### 24. Payment in Indian currency

(a) In cases where contracts provide for the setting up of revolving fund for payment of the contractual obligations, the maximum amount to be placed in the revolving fund should be specified.

(b) The clause for financing charges, if any incorporated in the agreement, should be clear and specific.

### 25. Payment in Foreign Currency

(a) Foreign exchange aspects should be kept in view and as far as possible the consultants should be required to work with the help of local personnel in India so as to reduce payments in foreign currency.

(b) When payments are to be made in foreign currency it would be better to deposit the rupee equivalent in a bank in India nominated by the Consultants and remittance facility allowed.

(c) Commitments for payment of fees etc. should be settled in Indian rupees and not in foreign currency, particularly when the companies with whom contracts are entered into are Companies incorporated in India.

#### *26. Time schedule from Trial run to full production*

Time schedule for the various important events and progressive targets should be laid down clearly. It would be desirable to watch these time schedules and targets by net work analysis. Constant reviews would be necessary after every important event or delays due to any reason whatsoever to determine the ultimate time schedule in the completion of the project. A clause for recovery of liquidated damages for delays should be provided. Likewise payment of incentive bonus for improving upon the completion date may be considered where necessary.

#### *27. Guarantee on performance and Maintenance of quality*

(a) Performance guarantee bond should clearly indicate the liability of the Contractor/Consultant for unsatisfactory performance and non-fulfilment of the contract in respect of quality, faultless operation, and level of production etc.

(b) Guarantee clauses relating to the professional competence of technicians deputed as also for the accuracy of documents supplied should provide the right of claiming damages and replacement of the defective supplies.

(c) In all contracts for supply of equipments, the Indian party should reserve the right to decide finally whether the non-shipment of minor items would be taken into account for determining the date of last shipment as also the effect of the non-shipment of such items on the erection schedule of the project, the guarantee period for the workmanship guarantees etc.

(d) The point of time from which the guarantee period is to be counted should be so fixed, that a reasonable period is provided to test the performance regarding quality, capacity and endurance of the plant and equipment. The plant management should physically operate the plant under full pressure on a sustained basis for the

stipulated period before accepting the equipment & releasing money on account of final payment. The agreement should clearly stipulate that the liability of the foreign collaborator for proving performance shall stand for a mutually agreed period which may start from the date when the plant is commissioned and not when the plant/equipment is despatched or some parts of its are erected.

(e) The performance guarantee should cover not only the performance of individual plants and machinery, quantity/quality of products but also the performance of the system as a whole for a fairly long period depending upon the nature of collaboration.

(f) The guarantee tests of plant and equipment ought to be conducted under the prescribed operating conditions to which the guarantee relates and certificates of performance guarantee should not be issued unless the management are thoroughly satisfied from all aspects during actual trial that the plant and equipment are capable of working to the guaranteed capacity.

(g) In case there is some delay in proving performance after the stipulated dated due to factors for which the collaborator may be responsible, the period of guarantee should automatically stand extended by corresponding period of delays and a provision to this effect should be made in the agreement itself.

It should also be made categorically clear in the agreement that rectification of defect/deficiency in the quality or capacity of an equipment or plant detected in performance test and even replacement of equipment, if found necessary, would be done at the cost of the collaborator and all the additional expenditure on stay of foreign experts, freight etc., would be borne by the foreign collaborator.

The liability of the foreign collaborator should not end with proving the performance of the plant & equipment within the guarantee period. Apart from performance, the quality of equipment is equally important and should be proved only after it runs for sufficiently long period. In case of break-down of equipment within a stipulated period due to any manufacturing defect or if it is discovered that the material used in the fabrication or assembly of equipment or plant is below specifications, the collaborator should be held accountable for supplying equipment/plant made of such defective material. A suitable provision should be included to guard against equipment of substandard quality.

## 28. Penalty Clause

(a) A clause for recovery of liquidated damages should be included (in addition to the right to terminate the agreement in case of delay in execution or unsatisfactory performance) and also a right to postpone the payment of every instalment in such situation should be secured.

It may also be desirable in many cases to have a performance guarantee bond being directly enforceable by the enterprise, with regard to the functioning of the equipment and the like. In cases of delay in execution, it would be necessary for the enterprise to make a genuine pre-estimate of the damages likely to be suffered by reason of delay and the like, and to make a provision for liquidated damages on that basis.

(b) Where possible penalty clauses for non-adherence to the committed delivery schedules of equipments, components, materials, designs, specifications, know-how etc. should be provided.

(c) The liquidated damages should have a relationship to the loss in terms of value to which the undertaking may be put to, on account of delays in the discharge of the responsibility envisaged in the agreement in regard to the supplies and other aspects like delay in commissioning of the plant, commencement of production etc.

(d) The recovery of liquidated damages arises mostly on account of delay in supplies or non-supply of drawings, designs, equipments etc., delays in erection and commissioning of plants and non-achievement of rated level of production. A careful watch on the performance of the collaborators should be kept in these critical areas with a view to pin-pointing responsibilities at the appropriate time and take action by way of recovery of liquidated damages/penalty as the case may be.

(e) Once the amount of liquidated damages is determined, it should be recovered from the amounts payable to the collaborator as and when due and should not be postponed till the final payments become due.

## 29. Price Escalation clause

Escalation should preferably be admissible only where the rates of labour and material have increased due to fresh Government orders like imposition of new duties, levies etc. If any price escalation clause is incorporated it may be clearly defined as to what extent and on what basis escalation will be admissible.

### 30. Royalty payments

(a) Royalty payments may be governed as per extracts from O.M. No. ID&FC-5(26)/68-II, dated 25-1-69 (attached).

(b) Where desirable, the alternative of expressing royalty as a fixed amount per unit of production, having regard to the landed cost of the unit (excluding duty, freight, packing, commission etc. charges) irrespective of the source of procurement may be considered, specially when the Indian prices are expected to be very high as compared to the inter-national prices or there is a possibility of substantial secular increase in the price of the product.

(c) In case of certain consultancy agreements, utilisation of some patent rights may be involved which may require payment of royalty on fees for several years to come. As far as practicable, such perpetual payments should be avoided unless justified on financial ground. It should be considered whether it would be advantageous to buy such rights outright or to make payments on yearly basis.

### 31. Indemnities

The consultancy agreement should provide a safeguard to the public enterprises in the contingency of any infringement of patent rights and other claims by third parties.

### 32. Power of Transfer

The Government|Public Enterprises should have the right to transfer all rights and liabilities under the agreement to any other company or organisation provided that the Government/Public Enterprises have and maintain a controlling interest in such company or organisation.

### 33. Property rights in respect of drawings, tools, fixtures, temporary buildings and left over Materials etc. after the completion of the work.

The question regarding the title to the plant machinery etc. supplied by the contractor should be adequately covered and spelt out in the agreement so that there is no ambiguity regarding the ownership of the materials left after the completion of the project.

### 34. Arbitration

The Indian Arbitration Act is definitive and it should normally be possible to include the provision of arbitration in the collaboration

agreement in conformity with the Indian Arbitration Act, 1940. However, in cases of collaboration agreements for sophisticated technology where collaborators may be few, the arbitration may have to be under the rules and regulations under the International Chambers of Commerce, if so insisted upon. Even in such cases the venue for arbitration should as far as possible be India. The number of arbitrators, umpires and their nationality should be indicated.

The feasibility of making suitable provision in the agreement by which technology disputes should be resolved during the subsistence of the agreement should also be considered and the need for legal arbitration or judicial settlements which are fairly long drawn out processes involving uncertain liabilities ought to be minimised.

### 35. Law of the country

The contracts, particularly those with foreign parties, should contain an express provision as to the law by which they are to be governed. It would be desirable wherever possible to state that the contracts would be governed by Indian Law.

### 36. Force majeure Clause

If the execution of the contract is delayed for any period because of hostilities, embargo, blockades or for any other reason beyond either party's control, the parties shall not be held to the date of execution of the contract and the representatives of the parties to the contract shall immediately consult each other and agree upon the necessary measures to be taken. The existence of such circumstances within the territory of the parties to the contract shall be confirmed by certificates to be issued by the appropriate authorities in the countries concerned.

### 37. Giving notices for Termination of Agreement

There should be a clause for premature termination of a consultancy agreement in case the work is found to be unsatisfactory or not suitable. There should also be an indication regarding the manner of settling the account in case such contingency arises. As far as possible, the quantum of remuneration should approximate the quantum of work actually done and legitimate expenses incurred by the consultants. It should also be clearly laid down that whatever work has been done by the consultants shall be the property of the employer and all papers, drawings and designs etc. should be secured in suitable form before final payments are made.

### **38. Auxiliary Industries**

Normally efforts should be made to give an indication about the establishment of auxiliary industries in the detailed project reports, but that may not be possible in all cases. Some broad indication about the same could be given in the techno-economic feasibility studies.

By making a study of the auxiliary industries established abroad it should be possible to make an accurate assessment of the possibilities. Furthermore whenever we go in for foreign collaborations we could ask the collaborators to make provision or to give us the know-how about establishment of suitable auxiliary industries.

### **39. Delegations/study groups**

As and when any delegation/study group from this country goes abroad, after arrival in the country concerned and before commencement of negotiations/discussions, the delegation/study group should call on or speak over the telephone to the Head of the Mission/Post for briefing, depending on whether he is at the same station or elsewhere. He should in any event be kept fully informed of the progress and outcome of the talks and any follow up action that might need to be taken.

### **40. Research and Development**

(a) While the collaboration agreement should necessarily provide for horizontal transfer of technology, it would be essential for the undertaking importing technology to build up their own engineering and Research and Development organisation to assimilate, update and indigenise the technology and effect improvements as required, within the shortest possible time, so that it is fully abreast of the latest developments in the field and be in a position to make horizontal transfer to other units in public interest, if and when needed. The progress in setting up the Research and Development facilities should be monitored and the Board of Management and the Administrative Ministries should keep a close watch on this aspect since the date of approval of the agreement. They should also ensure that the foreign collaborator is discharging his duties and responsibilities in terms of agreement in this regard so that suitable remedial measures are taken in time. These Research and Development units should be closely associated with the actual production, improvement in manufacturing processes, improvement of materials, cost reduction etc. and should be in a position to find

solutions to technological constraints coming in the way of achieving designed output. Thus the whole thrust should be on upgrading the technological expertise of the industrial units with emphasis on development.

(b) Where setting up of Research and Development unit is neither feasible nor economical, a close liaison should be maintained with the enterprises in the same sector or engaged in similar manufacturing activities and a pooling arrangements may be made or alternatively such units may be attached to other research institutions as may be found feasible and advantageous.

(c) There should be regular system of feed back from the field as well as the market and other technological information on the basis of with products/process development/improvement may be taken up in the Research and Development units.

(d) There should be close coordination between the Research and Development units of industries public enterprises in the same sector. These units should cover amongst themselves the entire field of research and development and technological improvements in that sector to avoid any duplication in this regard.

(e) Research undertaken by the national laboratories should have close relation to the needs of industry so that viable results are produced and the process of know-how transfer is facilitated.

(f) There should be a system of communication of the results of research which are of wider interest to all the public undertakings and to the industry provided such dissemination of information does not come in conflict with the larger interest of the Public Sector. This would help in percolating the results of laboratory to the industry.

(g) There should be regular programmes of exchange of personnel between the industry and research institutions. This would help in utilising the results of research in the undertakings and facilitate the research institutions to adopt their programmes to the needs of the industry.

#### **41. Training**

(a) A clause on training should be included in the agreement itself that the collaborator would undertake to train the Indian personnel and facilities the transfer of technical know-how in the interest of absorption of know-how at a quicker pace at no extra

cost and the Indian engineers should be associated with the foreign collaborators during the various stages, particularly the design stage of the plant, for long enough period to enable them to pick up the intricacies of the work and develop the necessary expertise in this crucial field. During the period when Indian engineers work with the foreign experts for designing, commissioning, operation etc. of the plant; emphasis should also be laid on the acquisition of knowledge and expertise for reaching full production up to the level of installed capacity at the earliest and maintaining it at that level.

The maintenance of plants (including drawal of maintenance schedules) should be an important aspect to be taken care of. Arrangements for training should be provided at the collaborator's works on machines and equipments which are more or less identical with those which would be supplied under the terms of agreement for installation in the country and such training should be much before the commissioning of the plant. A careful watch on the extent of the facilities actually made available to the Indian engineers and personnel should be kept so as to ensure that full advantage of training is secured.

(b) The Undertaking should make sure that content and duration of training is precisely spelt out in consultation with the collaborators before deputing them for training abroad and that the technicians actually receive practical training in the maintenance and operation so that the undertaking can derive maximum benefit out of their experience abroad.

(c) The sponsoring organisation should put the services of such trained technicians to the best possible use not only in the sphere of operation and maintenance of the plants but the engineers who had received training abroad should train the engineers/personnel at Home so that self-reliance may be built up. Besides giving training to others, they should be required to share their experience in workshop meets with other colleagues in the Undertaking.

(d) The Indian personnel and engineers on return from abroad should be required to submit a report giving a precise account of the training that they have received and also about the significant developments in technology which would be of interest to the Public Undertaking. The Management should carefully scrutinise the report with a view to identifying points which should be beneficial to the undertaking and take suitable measures as may be necessary in this regard.

(e) Adequate safeguards and stipulations should be made to ensure that, the trained technicians on return are obliged to serve the sponsoring undertaking for considerably long periods so that the advantages of training are not lost to the Undertaking.

(f) There should be coordination amongst the Public Undertakings working in the same sector so as to cover amongst themselves the entire gamut of designing, operation, maintenance, etc. of plants and projects.

#### **42. Tax Liability**

Amendments have been made in the income-tax Act 1961 by the Finance Act 1976, which have simplified and rationalised the determination of tax liability under the foreign collaboration agreements.

The Amendments to Section 9, new Section 44D, 115A of the Income-tax Act 1961 particularly deal with this aspect.

The Administrative Ministries/public enterprises ought to refer to these amendments before finalising foreign collaboration agreements.

#### **43. Enlistment of consultancy services**

Consultancy organisations in various fields should be compulsorily required to enlist themselves with the Administrative Ministries[DGTD]. Administrative Ministries, should, in consultation with the Public Enterprises and national research organisations like NRDC, Department of Science and Technology, SCIR etc. take steps to identify the specific areas in which consultancy is yet to be developed and strengthen the existing consultancy organisations for providing consultancy services in such fields.

#### **44. Procedural Improvements**

The Foreign Investment Board had been set up in 1969 and is charged with the responsibility of expeditious disposal of cases. A special procedure has been introduced w.e.f. 1st November, 1973 for processing of applications for industrial licences and foreign collaboration. The applications should be disposed of within the prescribed time schedule of 120 days.

With a view to minimising procedural delays in disposal of applications relating to foreign investment and foreign collaboration by FIB discussions should be held where necessary with the chief executives of the Public Enterprises or the senior officers of

the Administrative Ministries concerned so as to resolve all matters and issue the final orders well within the prescribed period of 120 days. This would help to clinch the foreign collaboration terms and remove one major uncertainty in the time schedule for implementation of planned projects.

Enclosure

*Extracts from O.M. No. ID&FC-5 (26) | 68-II dated 25-1-69 regarding foreign collaboration policies and procedure—Guide Lines*

\* \* \* \*

6. The following are some of the general principles to be borne in mind while dealing with foreign investment/collaboration cases:

(i) Even when the principle of foreign investment in a particular industry is accepted, it is important to ensure that, to the maximum extent possible, effective control in a joint venture rests in Indian hands. That is why foreign equity participation beyond 49 per cent is accepted in only exceptional cases. It is probable that in view of the Indian shareholding being divided, the foreign collaborator may be in a position to exercise effective control on the basis of a holding of less than 49 per cent. In view of this, all cases with foreign holding in excess of 40 per cent should be looked at carefully and, where approved, such steps as may be practicable (such as insistence on majority Indian Directors) should be taken to ensure that effective control remains in Indian hands. In judging the relevance of foreign equity holding to effective control, it would also be pertinent to distinguish between cases where the foreign equity holding belongs to a single group of management (or closely related groups of management) and those where it is shared, particularly with foreign financial institutions including International Institutions.

While our policy is to encourage foreign private investments in the industries which we desire to develop one of the criteria for judging such proposals would be related to the profitability of a particular industry. While considering proposals for foreign equity participation in industries where the profit margin is substantially high, Ministries should take into account the quantum of dividends which will have to be remitted abroad in a relatively short period and relate this to the likely earning or saving of foreign exchange.

(ii) Normally royalty is expressed as a percentage of the ex-factory selling price of the product, minus the landed cost of the imported components including ocean freight, insurance, customs duties payable thereon etc.

In appropriate cases the alternative of expressing royalty as a fixed amount per unit or production may be considered. This may be particularly appropriate in cases where the Indian price of a commodity is expected to be very high as compared to the International price.

In respect of the engineering industries, a provision should be made in all collaboration agreements to the effect, that if a readily identifiable component is made by the same Indian party in collaboration with another foreign party, on a royalty basis, the cost of such a component should be deducted from the ex-factory price of the final product for the purpose of computation of royalty. Similarly, if the same foreign collaborator is associated with the manufacture of the final product and also any of the identifiable component even if the Indian partners are different, the cost of such components should also be off set from the value of the final product for the purpose of the computation of royalty.

(iii) For the purpose of these guidelines royalty has been grouped into two ranges, a low range upto 3 per cent and the other upto 5 per cent. All royalties are subject to Indian taxes. The Ministries and the Departments of the Government of India should not as a rule negotiate on the basis of payment of fees to foreign collaborators free of Indian taxes but should insist on such payments being fixed subject to applicable Indian taxes.

The question has been considered whether in cases where minority foreign investment is allowed, the rate of royalty applicable should be something less than what would be admissible if there is no equity participation. A view has been expressed that in so far as the foreign investor gets a share in the profits of the company, there is a justification for a reduction in the royalty rate. On the other hand, the foreign investors have often taken the stand that their participation in the equity risk should not be a ground for denying payments which would otherwise have been made. Government have accepted this position. It is felt that we should not take a rigid stand that there should be an appreciable reduction in the percentage of royalties on account of equity participation particularly as this may act as a disincentive to investment. In the interest of quick decisions, it does not seem desirable to have too much of a refinement to regulate the rate of royalty according to the quantum of minority investment.

(iv) In the very limited number of cases where majority foreign participation is agreed to the royalty payments to the foreign collaborators should be on a substantially reduced basis.

Proposals for majority foreign participation in new enterprises would be considered only when one or more of the following main criteria are satisfied:—

- (a) the main contribution of the project is in a field of technology where India has made little progress and where great deal of initial or additional development is necessary.
- (b) the amount of foreign exchange needed for the project is such that unless the foreigner is allowed to have majority share holding we shall ourselves have to find a substantial amount of the foreign exchange for the project, no alternative methods of long term finance being practicable; and
- (c) an essentially export oriented scheme.

(v) There should generally be no provision for payment of a stipulated minimum amount of royalty related to turn-over.

(vi) In the case of payment of royalties to overseas concerns by fully-foreign-owned or majority-foreign-owned Indian companies, the following procedure should be followed:

- (a) *Collaboration between a wholly-owned subsidiary of a foreign company in India and the parent company.*

Ordinarily no royalty payments to the parent company will be agreed to but payments towards technical services and fees for contribution towards research expenditure may be considered on merits in individual cases.

- (b) *Collaboration between a wholly owned foreign subsidiary in India and a foreign company other than the parent company.*

As a general policy collaboration between wholly-owned subsidiaries in India and a foreign party other than the parent company should be discouraged.

- (c) *Payment of royalty in joint ventures in which the foreign collaborator has a majority holding.*

In case of companies with majority foreign equity participation it will not be practicable to take the stand that there should be no royalty payments at all. The existing policy of allowing a substantially lower rate of royalty than would otherwise have been agreed to will continue to be followed.

(vii) Royalty payments should normally be restricted to a period of 5 years from the date of agreement or 5 years from the date of commencement of production provided production is not delayed beyond 2 years of signing of agreement (i.e., a maximum period of seven years from signing of agreement).

(viii) In all cases of Government approval to foreign collaboration proposals it should be specifically stipulated that the royalty terms were being approved for a particular quantum of production (*viz.* upto the capacity licensed or proposed to be set up, and 25 per cent in excess thereof) and that in case of production in excess of that quantum the prior approval of Government would have to be obtained regarding the terms of payment of royalty in respect of this extra production.

(ix) The fact that foreign investment is allowed should not be a ground for allowing import of capital goods which would otherwise not have been allowed. There should be appropriate scrutiny from the indigenous availability angle to ensure that the maximum possible fabrication of indigenous machinery is insisted upon. It is, in general, desirable for investment to be in the form of cash, with purchase of equipment from the cheapest source. Where the investment is in the form of equipment, care should be taken to see that the prices charged are reasonable. Where the capital participation exceeds the value of imported machinery, the balance should be brought in cash.

(x) There should be no stipulation that raw materials, components etc. will be obtained only from the foreign collaborator. The Indian parties should have freedom of choice in this regard.

(xi) With a view to promote exports of non-traditional products the following points should be kept in view:

(a) When existing collaboration agreements which limit export franchise, come up for renewal, the restrictions should be totally eliminated or substantially removed. In the event of the foreign collaborator not agreeing to this course of action, renewal of agreements should not be permitted;

(b) further agreements should be stringently scrutinised to eliminate export restrictions, the approach being that the agreement should allow free export to all countries except perhaps the country of the foreign collaborator or the countries where the foreign collaborator is having joint venture in the same field of production;

- (c) in low-priority or non-essential fields of production where foreign collaboration is not generally allowed, a relaxation be made where the foreign collaborators agree to undertake a major share of the production for exports; and
- (d) the existing policy of not allowing foreign collaboration in trading activities may be relaxed where such collaboration is exclusively aimed at augmenting our export sales.

The Ministries should ensure that the export clause in the collaboration agreements gives correct and definite information regarding the countries to which exports will be specifically permitted or disallowed and this information should be clearly indicated in the Notes/Summaries prepared for consideration of the Foreign Investment Board or its Sub-Committee.

In considering applications for foreign investment/collaboration in low priority and non-essential fields, no specific percentage can be rigidly enforced in regard to the quantum of production to be underwritten by the foreign collaborator for export; this will have to be considered on the basis of the export potential of each product. Before putting up such cases to Foreign Investment Board, Ministry of Commerce should be consulted and their views obtained in each case.

(xii) Where an indigenous "know-how" capable of commercial exploitation is available, importation of know-how is not normally permissible.

(xiii) The importance of avoiding repetitive import of know-how for the same or similar product or process should be kept in view. Also to the extent practicable fresh entrants should be asked to obtain the know-how imported by those already in the field.

In fields of manufacture where a number of collaborations have already been approved and a new application is received for approval of foreign collaboration in the same field, steps should be taken to explore whether it is possible for the new applicant to obtain the know-how from one of the parties who are already in possession of it. In many of the existing agreements there is a secrecy clause. In future agreements the Ministries should ensure that there is a provision to the effect that the technical know-how/product design/engineering design can be passed on to another Indian party, should it become necessary, on terms as mutually agreed to by all the parties concerned, including the foreign collaborators, and subject to the approval of Government.

In fields where there is likelihood of 3 or 4 units of the same industry being set up at about the same time and all of them are likely to require foreign collaboration, it should be ensured that negotiations for acquisition of know-how for these units are conducted in a co-ordinated manner, with selected foreign parties, rather than permit each Indian party to negotiate individually and independently of each other. Economics of scale would make themselves felt in such a case of negotiation on a multi-plant basis and result in lowering of royalty rate and lump sum fees for the first as well as every subsequent unit.

(xiv) In appropriate cases, and to the maximum extent practicable, there should be provision for *Indian scientific, technical and engineering institutions* being associated with the foreign collaboration, so that the foreign "know-how" is absorbed in our economy as quickly as possible and further developments should take place within the country. While approving a case of foreign collaboration, stress should be laid on the development of indigenous "know-how" as early as possible, so that it may be possible to discontinue the collaboration after the period of validity of the agreement.

(xv) With a view to ensuring maximum possible utilisation of Indian Consultancy services, wherever Indian consultancy is available it should be utilised exclusively and if foreign consultancy is also required, Indian consultants should also be associated and, as a rule, be the primary agency employed for consultancy. From amongst the Indian consultancies preference should be given to agencies in which the predominant interest is Indian.

Clearance of the Foreign Investment Board should be obtained by the concerned Ministry/Department before consultancy services involving payment in foreign exchange of Rs. 50 lakhs or more are agreed to.

(xvi) Suitable provision should be made for the training of Indians in the field of production and management.

(xvii) The question of use of foreign brand names/trade marks should be examined from the view points (i) whether any additional payments is envisaged for the use of such foreign brand names; and (ii) whether the use of such names would adversely affect the small scale sector or the indigenous industry. In such cases the use of foreign brand names should not be allowed for products manufactured under foreign collaboration and meant for the Indian market. There should, however, be no objection to the use of foreign brand names on the products meant for exports.

(xviii) A predominantly foreign owned company with agency functions operating in India should be called upon to redefine its functions, wherever it proposes to associate Indian capital or, in other words, reduces foreign equity.

(xix) Cases of 100 per cent foreign owned Indian companies or predominantly foreign owned companies seeking to take over another predominantly foreign owned Indian company or any other category of Indian company (a) by complete merger or (b) by making intercorporate investments, within the ambit of Section 372 of the Companies Act, should be brought before the foreign Investment Board|Sub-Committee. All cases of merger of two Indian companies which will result in the merged company having a direct cum beneficial non-resident shareholding in excess of 40 per cent of the equity capital should also be brought before the Foreign Investment Board.

## APPENDIX II

(*Vide* Replies to Recommendation Nos. 5 and 25)

### DIRECTORATE GENERAL OF TECHNICAL DEVELOPMENT

*Paper for the consideration of the CACI at its meeting on  
27th July, 1976.*

#### General

1. The need for adoption of indigenous technology where available and found suitable after evaluation and for giving for its development necessary encouragement and support cannot be over emphasised.
2. To give impetus to the development and utilisation of indigenous technology, several measures have been taken at the policy level, like-de-licensing of units being set up with technology developed by national laboratories or other R&D institutions recognised by the Department of Science and Technology subject to certain conditions pertaining to MRTP/FERA/Companies Act in whose case the programmes of research have to be registered with the DST prior to their being taken up, tax reliefs and exemptions, liberal import of designs and drawings, liberalisation for the import of testing equipment components and materials for use by R&D laboratories etc. The communication and coordination between the various Government technical organisations, the R&D and industry have also of late improved. A number of other actions have also been taken by the DGTD in the generation of Technology Data Bank, association of outside experts for evaluation of claims of technology having been developed and available for utilisation by others.
3. There is however, further scope for improvements which will generate more confidence and faith between the industry, R&D and other concerned departments/agencies which thereby would result in more speedy decisions and clarity of instrumentalities through which these decisions are implemented in a co-ordinated fashion.
4. The purpose of this note is to highlight for consideration of the CACI the areas where linkages between industry and R&D Institutions could be further strengthened and other actions taken as would lead to attainment of the objective of technological self-reliance (as against self-sufficiency).

### *Linkages between Industry and the R&D*

5.1. *Exchange of personnel.*—Although *ad hoc* arrangements exist for exchange of personnel between the industry, the R&D and the DGTD, there is need to systemise this which will enable regular exchange of personnel between various organisations including DCSS 1, Financial Institutions etc.

5.2. Some of the main components of the programme could be (A) exchange of expertise, initially with the public sector and between the organisations like DGTD, public sector, CSIR, DST, etc., who will have suitable deputation reserves whereby every organisation will at any time have a certain percentage of officers on deputation for reasonable periods of 3—5 years and (B) the officers so exchanged will be attracted to be exchanged through the benefits of more liberal pay and deputation allowance. In case there are any recruitment of deputation rules standing against such an arrangement these would be suitably modified.

5.3. Such a scheme will help considerably in mutual appreciation and better understanding of each other's problems and difficulties and broadcasting the outlook of the technical officers over a wider spectrum. It is inevitable that the officers who have gone through such an exchange would prove more useful to their parent organisation on completion of their deputation.

6.1. *Communications/credibility gap.*—While there are a number of examples of successful generation and transference of technologies, yet a distinct feeling exists that premature claims are made on development of a number of technologies resulting in pressures being developed for the adoption of indigenous technology. On the other hand the R&D argue, with a degree of validity, that there are cases where even imported technologies have either not been appropriate or have not yielded the desired results. In the process, rigid attitudes are apt to develop leading to delays in finalisation of the scheme. There are also examples of claims by industry of development of technology intended to block collaborators to enjoy technological monopolistic situations.

6.2. Obviously capabilities must be generated where it does not presently exist to generate technologies to the desired package where verification of not only the technology, but also its costs of production and other techno-economic aspects can be properly evaluated.

6.3. The process would be considerably facilitated if in the initial selection of programmes, we have linkages with the industry concerned to ensure proper selection and involvement of the industry right from the beginning. Such interaction from the very early stages through the various phases of progress would also considerably help in bridging the credibility gap and in subsequent development and application of the technology.

6.4. What is the best way to bring this about? Obviously each organisation has a rightful role to play, but a suitable mechanism of controlling programmes on felt needs of the industry, findings of such projects and monitoring of progress assumes importance.

6.5. The diversified industrial base in the country alone with R&D consultancy and engineering firms provides a promising technological infrastructure in the integration of various services so necessary in the process of technology transfer. In the smooth and speedy transfer of technology, the close involvement of these agencies in a coordinated fashion also assumes considerable significance.

7.1. *Attitudes.*—There are examples where a good technology through either inappropriate choice of recipients of technology or management attitudes has run into difficulties. On the other hand, there are examples where given the right attitudes and involvement, the technology developed in the country has been successfully translated into production.

7.2. The industry also opts for proven technology. On the other hand it has to be appreciated that in the development and induction of indigenous technologies, a lead has to be taken by industry in its commercialisation with suitable design firm. Arguments are also sometimes advanced that the indigenously developed technology is technologically obsolescent compared to the technology proposed to be imported.

7.3. Some of the corrective measures which have been taken in this regard are:

- (a) identification of sectoral technology gaps on a perspective period of 15 to 15 years by various Development Councils| panels and other organisations institutions etc.
- (b) coupling of R&D institutions with the industry requiring imported technology which will thereby give a higher 'take off' point for indigenous technology development and which thereafter would help to reduce on multiple import of technology.

(c) Participation by NRDC in equity to cover the risk factor as well as risk capital fund operated by the IFC.

7.4. Efforts however, would require to be made to further improve on the mechanism which could include more liberal access to the R&D institutions of the various technology package imported by industry and more free association of technologists/outside experts well known for their competence in various technologies. This assumes importance considering the vast and diversified industrial base and the requirement of technology which while appropriate, must be stow advantage of competitive strengths being generated through reduction in costs of production, improvements in quality, higher productivity and use of materials and other inputs available from within the country or available more freely.

8. *Technology gaps*.—There are certain areas where there are major sectoral gaps. To illustrate, a few areas where there is no worthwhile effort, mention may be made of paper, ball bearings, rubber and foundry-forge technology. There would be need to strengthen efforts in such areas through establishments of suitable R&D institutions which will however, take full advantage of existing facilities on a co-ordinated basis.

9.1. *Testing/proving/pilot plant facilities*.—There is at present a dearth of such facilities in a number of areas. The establishment and development of these, is vital to bridge the link between discovery and application.

9.2. Obviously no individual firm or laboratory can make the necessary investment and in the interim period, we have been permitting testing of some products abroad. A solution to this problem would be in making the best use of tool rooms and fabrication facilities in various firms on a job work basis without of pocket expenses being met by the Government. Also Government should invest to set up specialised testing facilities.

10.1. *Greater involvement of academic institutions and professional institutes*.—The academic institutions have been associated in Development Councils and involved in various R&D programmes through Deptt. of Science and Technology, CSIR, NRDC and other organisation like Defence R&D etc. However, there is scope for greater involvement and for suitable integration and coordination of programmes.

10.2. The professional institutions have also a great wealth of talent through their membership and such expertise could be further harnessed on technological advice to small scale units, setting up of facilities etc.

11.1. *Technological Data Bank*.—The DGTD has already in hand the development of the technology data bank which will help in decision making on adoption of indigenous technology and in compilation and dissemination of knowledge already existing for use of Government/industry. It will also act as an agency for further collection of information on technologies, including absorption of imported technologies, export of technologies etc.

11.2. In this endeavour co-ordination of activities and cooperation by industry and other organisations is a necessary requirement apart from further efforts to strengthen the existing arrangements and facilities.

11.3. The Deptt. of Science and Technology and Indian Investment Centre have a number of their officers posted abroad which would help in feed back of information on trends of technological advancement, and other related matters. However, this would require to be strengthened through persons who are well-versed on industrial technology as the DGTD officers are. Emphasis would have also to be given to briefing and debriefing of various representatives of industries, R&D etc. Who may visit countries abroad in the feed back and analyses of the technical information.

12.1. *Role of NIRD*.—NIRD has pivotal role to play in transfer of technologies and in inspiring confidence of entrepreneurs in the technology and effective follow up action in availability of various elements of technology packages in time, effective follow up actions in the precommissioning and post commissioning stages of a project. They have also a positive role to play in proper selection of recipients of technology.

12.2. This role is capable of being made more purposeful through suitable strengthening of the organisation, greater support and communication and through more effective follow up action.

13.1. *In-house R&D activities in the industry*.—The effort of in-house R&D activities has been by and large limited. There is a need to further augment this effort.

13.2. In a number of advanced countries the motivation for this is survival and huge funds are spent on R&D. The emergence of a buyers market in certain fields (which should be retained and improved upon) improvement of material supply and consumers becoming more quality and price conscious now add impetus to undertaking of greater in-house R&D efforts.

#### **Conclusion**

14. This paper has highlighted certain areas where corrective actions or further emphasis is necessary on the vital subject of industrial R&D. In all this, there is a clear need to further strengthen the linkages between the industry, R&D and other agencies.

### APPENDIX III

(*vide* Replies to Recommendation No. 12)

No. 35/2/77-BPE/MM

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

**Bureau of Public Enterprises**

Mayur Bhavan, 7th Floor,  
Connaught Place,  
New Delhi-110001.

Dated the 8th August, 1977

#### OFFICE MEMORANDUM

**SUBJECT:** *Study of production techniques in Japan.*

The Committee on Public Undertakings in their 89th Report on foreign collaboration in public enterprises suggested that Government should undertake a depth study of the latest trends in Japan with a view to evolve procedures for selection of the best and most up-to-date technology.

2. Government has accepted this recommendation and in pursuance of the above a Study Group comprising of the following is set up:—

(1)	Brig. B. J. Shahaney, Secretary, Technical Development	Chairman
(2)	Dr. S. M. Patil, Chairman & Managing Director, Hindustan Machine Tools Ltd.	Members
(3)	Dr. S. Varajan. Chairman-cum-Managing Director, Indian Petrochemicals Corp. Ltd.	
(4)	Dr. Bimal Jalan, Economic Adviser, Ministry of Industries.	"
(5)	Shri Mani Narayanaswami, Development Commissioner, Handloom, Ministry of Commerce.	
(6)	Shri Bazle Karim, Adviser (P), B. P. E.	"
7)	Shri M. L. Mongia, Deputy Adviser (MM), B. P. E.	Secretary

3. The Study Group may associate in its deliberations any other experts as found necessary.

4. The Study Group will undertake a depth study of the latest trends in Japan with a view to evolve procedures for the selection of the best and the most upto date technology in public sector, which would make for economic production at most competitive prices consistent with increased employment potential.

5. The above Group should undertake the study on priority and submit their report latest by December, 1977. TA|DA of the Chairman|Members|Secretary of the Group will be borne by their respective organisations.

Sd/-

(S. Jagannarayanan)

*Deputy Secretary to the Govt. of India.*

Tele: 42174

To

**Administrative Ministries concerned.**

**All Members of the Study Group.**

## APPENDIX IV

(vide Replies to Recommendation No. 29)

D.O. No. DS|NCST|23|75

GOVERNMENT OF INDIA

DEPARTMENT OF SCIENCE & TECHNOLOGY

Technology Bhavan

New Mehrauli Road,

New Delhi-110029

dated the 7th Feb., 1976.

**SUBJECT:—Setting up of in-house R&D facilities by public sector undertakings.**

Dear

As you might already be aware, the Department of Science & Technology has been operating a scheme for the registration of in-house R&D units in the industrial sector within the framework of the Import Trade Control Policy for the last two years and, during this period, nearly 300 R&D units in the industries have been recognised by this Department. According to the ITC Policy, such a registration or recognition is, in fact, a prerequisite before any industrial undertaking can import any equipments, raw materials, components or spare parts for research and development. On a perusal of list of the R&D units registered so far with this Department, I notice that the majority of them are in the private sector and only 25 units in the public sector have so far been registered with us. This you would agree, is not a particularly happy situation as we would certainly like the public sector to assume a leading role in the development of indigenous technology by making provisions for in-house R&D facilities. Apart from giving attention to the new product or process development (for future diversification), such facilities would be of immense use to the industrial undertakings concerned in achieving import substitution, improvements in quality or productivity, cost reduction and other like advantages.

2. Section 35 of the Income Tax Act, 1961 also provides liberal incentives in respect of expenditure incurred on scientific research by industries or other assessees in areas related to their business. Under sections 35(l) (i) and (iv) of this Act, the entire revenue and capital expenditure incurred on scientific research by an industry

in areas related to its business can be deducted as expenditure for purposes of calculation of income tax in the same year in which it is actually incurred. This is in contrast to the deduction of depreciation on capital expenditure related to production, which alone is allowed as expenditure in assessing the industry for Income tax.

3. In addition to the above fiscal incentives for in-house R&D work, Government have also recently announced a policy decision to accord preferential treatment for grant of industrial licences in cases where the technology has been developed in-house by the concerned industries themselves. Detailed guidelines for implementing this policy decision are being formulated and may be announced shortly. This again, should work as a positive factor in stimulating industries to set up their own in-house R&D facilities.

4. I notice from the list of R&D units registered so far with this Department that your undertaking has yet to set up its own R&D cell, separate from the day to day production, quality control or other activities/register it with this Department. I would request you to kindly give some thought to this subject and would be happy if you will consider setting up an appropriate in-house R&D facility for your undertaking as expeditiously as possible.

With regards,

Yours sincerely,

Sd/-

(A. RAMACHANDRAN)

## APPENDIX V

(*vide* Replies to Recommendation Nos. 49 & 51)

No. 35/1/77-BPE/MM

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

Bureau of Public Enterprises

*Mayur Bhawan, Connaught Place,  
New Delhi, the 12th May, 1977*

### OFFICE MEMORANDUM

**SUBJECT:** Recommendations contained in the 89th Report of the Committee on Public Undertakings on Foreign Collaboration in Public Undertakings.

Bureau of Public Enterprises was required to coordinate all replies in respect of the recommendations made by the committee on Public Undertakings in their 89th Report on Foreign Collaboration Coordinated replies have since been submitted to the Lok Sabha Secretariat in respect of all the recommendations. A complete set of the replies is enclosed herewith.

Suitable guidelines for public enterprises where necessary have been issued *vide* O.M. No. GL/012/BPE/MM dated 9th May, 1977.

Against Recommendation No. 12 a Study Group is being set up with representatives from Directorate General of Technical Development, Department of Science & Technology, Indian Petrochemicals Ltd., Engineers India Ltd., Garden Reach Ship Builders and Engineers and Bharat Heavy Electricals Ltd. Against Recommendation No. 78 a Questionnaire is being prepared which will be sent to selected public enterprises and on the basis of their replies the matter will be examined for further action.

There are certain recommendations where further action is called for by the administrative Ministries. In this connection Recommendations Nos. 5, 25, 20, 27, 28, 32, 37, 38, 40, 44, 47, 49; 51; 57; 72; 76; 84; and 91 may specifically be mentioned.

Administrative Ministries concerned are requested to do the needful as necessary.

Sd/-

(M. L. MONGIA)

DY. ADVISER(MM)

Tel. No. 42723

To

Ministries/Department of  
Government of India, as per list attached.

## APPENDIX VI

(vide Replies to Recommendation Nos. 54, 55, 56 & 57)

No. GL|015|77-BPE|MM  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
Bureau of Public Enterprises  
(M. M. Division)

Mayur Bhawan, Connaught Place,  
New Delhi, the 8th June, 1977.

### OFFICE MEMORANDUM

**SUBJECT: Scrutiny and approval of Detailed Project Reports.**

The Committee on Public Undertakings in their 89th Report (1975-76), Fifth Lok Sabha have stressed the need for expeditious clearance of DPRs and have made the following recommendations:

- (a) DPRs should be effectively scrutinised and properly appraised from all angles. In addition to examining the fitness of project in the broad pattern of economic development, the economic aspects particularly the demand for the product, whether the cost would give adequate return, the installed and the likely additions to the industry, market analysis, import export policy should also be kept in view.
- (b) Administrative Ministries should evolve a procedure by which copies of DPRs are made available to the concerned Departments/Ministries in time, so that consideration thereof is not delayed. Suitable time limit should be fixed for approval of DPRs by different departments and divisions of Government within the total time schedule fixed. A committee may be constituted comprising of nominees (experts) of the various Ministries involved in decision making which may meet once or twice along with the representatives of the Public Enterprises within the stipulated period to resolve difficulties, if any. Once the DPR is approved there should not be any delay in communicating its approval. In ~~case~~ any delay is anticipated at least financial sanction

to cover the immediate outlay should be communicated to avoid delay in initiating action for implementation of the project.

- (c) An effective follow up should be maintained at all levels in the Administrative Ministries and the undertakings concerned till the DPRs are finally cleared by the Public Investment Board or the Cabinet Sub-Committee as the case may be.

The above recommendations of the Committee on Public undertakings have been accepted by the Government. In fact, most of the points are already covered in various Guidelines issued on the subject earlier. Attention is particularly drawn to the BPE O.M. No. 694-Adv (C) |Cir-22|67 dated 14th August, 1967 and No. 1964-Adv. (C)/Cir-58/69 dated 12th December, 1969 and Plan Finance Division O.M. No. F. (17)|PF-II|76 dated 20th November, 1976. In addition, Guidelines for the preparation of the feasibility reports for the industrial projects have also been issued by the Planning Commission. It is essential that the various points in the Guidelines including those referred to above are complied with.

Ministry of Industry, etc. are requested to advise suitably all concerned.

Sd/-

(M. L. MONGIA)  
Dy. Adviser (MM)  
Tel. No. 42723

To

All the Secretaries of the Ministries/  
Departments of the Government of India.  
All IFAs in the Ministries.  
All Public Enterprises.

## APPENDIX VII

(*vide* Replies to Recommendation Nos. 54, 56 & 57)

No. GL/024/77-BPE/MM

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

Bureau of Public Enterprises

Mayur Bhavan, Connaught Place,  
New Delhi, the 2nd September, 1977.

### OFFICE MEMORANDUM

**SUBJECT:** Scrutiny and approval of investment proposals.

Reference Bureau of Public Enterprises, Office Memorandum No. GL/015/77-EPE/MM dated 8th June, 1977.

2. Contents of the above O.M. give an impression that the investment decisions would be taken only on the strength of the Detailed Project Report. In this connection the position is clarified as below:

With the setting up of the Public Investment Board, detailed instructions regarding scrutiny and processing of investment proposals were issued for guidance of the Ministries and the public enterprises *vide* Ministry of Finance No. 26(6) PF-II/70, dated 30-9-72. These instructions make a clear distinction between the Detailed Project Report and the Feasibility Report. In practice it has been noticed that in some cases the investment decisions are taken on the basis of Detailed Project Reports, but in majority of the cases, these decisions are taken on the basis of Feasibility Reports.

3. It is clarified that the recommendations contained in the above O.M. will apply *mutatis mutandis* to the document which is submitted to the Public Investment Board (whether feasibility Report or Detailed Project Report) for appraisal of investment and expenditure sanction.

Sd/-

(S. M. PATANKAR)  
Adviser (Finance)  
Tel. No. 40814

To

All Ministries/Departments  
of the Government of India.  
All Chief Executive of PSEs/  
All IFAs.

## APPENDIX VIII

(Vide Replies to Recommendation No. 9)

No. FC 1(6)/76-CCC Cell

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY

(Department of Industrial Development)

SECRETARIAT FOR INDUSTRIAL APPROVALS

*New Delhi, the 16th October, 1976.*

### OFFICE MEMORANDUM

**SUBJECT:—**Technical Evaluation Committee to evaluate imported technology etc.

The need for evolving an appropriate system for evaluation of indigenous and imported technologies had recently been discussed at length by the Group of Ministers. A view has been taken that the DGTD should take steps to further improve the present set up for maintaining of data on indigenous technology and information about its availability for transmission to the administrative Ministries and licensing authorities. On the question of import of technology, it was agreed that the different disciplines of technical expertise should interact and evaluate its merits as well as its acceptability. For this purpose it has been decided to constitute a Technical Evaluation Committee. The following will be the composition of the Committee:

1. Brig. B. J. Shahaney, Secy. T. D.	. Chairman
2. Shri Baldev Singh, Chief Technologist	. Member
3. Prof. G. Janaki Ram, Project Co-ordination, Dept. of Science & Technology.	. Member
4. Shri C. V. S. Ratnam, M. D., N. R. D. C.	. Member
5. Shri K. N. Ramaswamy, Deputy Director General, DGTD.	. Member
6. Shri N. Biswas, D.O. DGTD	Member-Secy.

2. The principal function of this Committee will be to evaluate the technology proposed to be imported as against indigenous technology, if available, the need for upgradation of such technology etc. The system of evaluation through this Committee will be integrated with the function of the Secretariat for Industrial Approvals, so that the Committee's opinion is made available to the S.I.A. as well as to the administrative Ministry who will take a final view and present the proposal before the appropriate Licensing Committee or the Foreign Investment Board. While commenting on the justification for importing the terms asked for, the Technical Evaluation Committee will as a rule leave the final terms to be settled between the appropriate Licensing Committee/Foreign Investment Board and the administrative Ministry concerned with the industry.

3. Secretariat for Industrial Approvals will provide the Secretariat. It will forward copies of the relevant applications to the Member Secretary. The Technical Evaluation Committee will forward its consolidated recommendations to the S.I.A. with a copy to the administrative Ministry within a period of 30 days from the date of referral of the application by the S.I.A.

Sd/-

(G. N. MEHRA)

*Joint Secretary, to the Government of India.*

To

1. Members of the Technical Evaluation Committee.
2. Administrative Ministries/Technical Departments.
3. All Officers & Sections in the SIA.

## APPENDIX IX

(Vide Replies to Recommendation No. 9)

No. 2(2)/76-CCC Unit

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY

(Department of Industrial Development)

SECRETARIAT FOR INDUSTRIAL APPROVALS

*New Delhi, the 7th March, 1977.*

### OFFICE MEMORANDUM

**SUBJECT:** Technical Evaluation Committee to evaluate imported technology, etc.

In partial modification of this Ministry's O.M. No. FC. I(6)/76-CCC Cell dated the 16th October, 1976 on the subject mentioned above, the existing para 3 of the Office Memorandum may be deleted and the following added as paragraphs 3 and 4.

"3. In complicated cases, or where there are differences of opinion in the Technical Evaluation Committee, the matter will be further discussed and resolved at a special meeting of the concerned Secretaries. As far as possible, this should be completed within the overall time limit provided for technical scrutiny under the SIA procedures. The concerned Secretaries may either meet separately and decide or attend the Foreign Investment Board meetings so as to resolve the differences finally.

4. The Secretariat for Industrial Approvals will provide the secretariat. It will, as usual, forward copies of the relevant applications to all technical organisation like the DGTD (2 copies), CSIR, NRDC, and Department of Science and Technology. The comments of the CSIR, NRDC and the Department of Science and Technology would be forwarded to the Member-Secretary, Technical Evaluation Committee, within 15 days after receipt of the applications from the SIA. The Technical Evaluation Committee will forward their consolidated

recommendation to the SIA with a copy to the administrative Ministry as usual within a period of 30 days from the date of referral of applications by the SIA."

Sd/-

(P. C. NAYAK)

*Joint Secretary to the Govt. of India.*

To

1. Members of the Technical Evaluation Committee.
2. Administrative Ministries/Technical Departments.
3. All Officers & Sections in the SIA.

## APPENDIX X

(Vide Para 5 of Introduction).

*Analysis of Action Taken by Government on the recommendations contained in the Eighty-Ninth Report of the Committee on Public Undertakings (Fifth Lok Sabha)*

I.	Total number of recommendations . . . . .	91
II.	Recommendations that have been accepted by Government (Vide Recommendations at Serial Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 & 91. . . . .	88
	Percentage to total . . . . .	96.9%
III.	Recommendations which the Committee do not desire to pursue in view of Government's reply (Vide Recommendations at Serial Nos. 9, 48 and 50). . . . .	3
	Percentage to total . . . . .	3.1%
IV.	Recommendations in respect of which replies of Government have not been accepted by the Committee. . . . .	Nil.
V.	Recommendation in respect of which final reply of Government is still awaited . . . . .	Nil