

COMMITTEE ON PUBLIC UNDERTAKINGS (1982-83)

(SEVENTH LOK SABHA)

SIXTY-SIXTH REPORT

Action taken by Government on the recommendations
contained in the Fiftieth Report of the Committee on Public
Undertakings (Seventh Lok Sabha)

on

ENGINEERING PROJECTS (INDIA) LIMITED
Ministry of Industry (Department of Heavy Industry)

Present to Lok Sabha on... 13 APR 1983
Laid in Rajya Sabha on.....



LOK SABHA SECRETARIAT
NEW DELHI

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(1982-83)

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INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this 66th Report on Action Taken by Government on the recommendations contained in the 50th Report of the Committee on Public Undertakings (Seventh Lok Sabha) on Engineering Projects (India) Ltd.

2. The 50th Report of the Committee on Public Undertakings was presented to Lok Sabha on 30 April, 1982. Replies of Government to all the recommendations were received by 11 March, 1982. The replies of Government were considered by the Action Taken Sub-Committee of the Committee on Public Undertakings on 24 March, 1983. The Report was finally adopted by the Committee on Public Undertakings on 4 April, 1983.

3. Analysis of Action Taken by Government on recommendations contained in the 50th Report of the Committee is given at Appendix.

NEW DELHI ;
April 4, 1983.

14 Chaitra, 1905 (Saka)

MADHUSUDAN VAIRALE,
Chairman

Committee on Public Undertakings.

CHAPTER I

REPORT

The Report of the Committee deals with the action taken by Government on the recommendations contained in the Fiftieth Report (Seventh Lok Sabha) of the Committee on Public Undertakings on Engineering Projects (India) Ltd. which was presented to Lok Sabha on 30th April, 1982.

2. Action Taken notes have been received from Government in respect of all the 23 recommendations contained in the Report. These have been categorised as follows :—

- (i) Recommendations|observations that have been accepted by Government.
S. Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 22 and 23.
- (ii) Recommendations|observations which the Committee do not desire to pursue in view of Government's replies.
S. No. : 17.
- (iii) Recommendations|observations in respect of which the Government's replies have not been accepted by Committee.
S. Nos. : 15 and 21.
- (iv) Recommendations|observations in respect of which final replies of Government are still awaited.
S. No. : 16.

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

A. Project Tendering

Recommendation Serial No. 5 (para 5, part II)

3. The Committee had recommended that there should be clear guidelines laid down by Government for public undertakings engaged in construction works, for tendering for projects including the margin normally to be included in contracts, expected rate of return on capital employed by such companies etc.

4. Government in their reply have stated that the matter has been considered in consultation with Bureau of Public Enterprises which are the nodal authority for all public sector undertakings. It was felt that the question of tendering for projects and the margins to be allowed in contracts are matters where there should be wide difference depending upon such factors as the nature of the works, type of enterprise, the quantum of work in hand etc. In view of this, general guidelines may

not be either desirable or feasible. In such cases, the concerned administrative Ministry could indicate to the Boards of Enterprises the procedure to be followed by them in such matters.

5. The Committee desire that the administrative Ministries should issue necessary guidelines to the undertakings engaged in construction works under their control in regard to submission of tenders for projects including the margin normally to be included in the contracts, expected rate of return on capital employed by such undertakings, etc.

B. Advances to Sub-Contractors

Recommendation S. No. 8 (para 8, part II)

6. The Committee had noted that the Company had paid advances to the extent of Rs. 86.90 crores as on 31-3-1981 to the sub-contractors out of which Rs. 56.67 crores were unsecured advances. These advances had been paid in spite of the fact that EPI was under no obligation to pay these advances under the contracts entered into with the sub-contractors. The advances were paid generally without prior approval of the Board and ensuring recovery of interest. The Committee had recommended that the practice of giving unsecured advances should end forthwith.

7. In their reply the Ministry have stated that Ministry of Finance (Department of Banking) have been requested to persuade IDBI|EXIM Bank to consider the request of EPIs sub-contractors|associates for borrowing from the overseas market on merits. If this suggestion is accepted the practice of giving advances by EPI to its sub-contractors|associates will automatically cease.

8. The Committee are unable to agree to this position. They reiterate that the practice of giving unsecured advances should end forthwith without awaiting IDBI|EXIM Bank reaction to the suggestion for considering allowing sub-contractors|associates to borrow from the overseas markets. Payment of advances by Public Undertakings entrusted with construction jobs should be properly secured and these should carry interest. The Committee would like to add that even if the sub-contractors|associates are allowed to borrow from the overseas market it is unlikely that they can get money without proper security or guarantee.

C. Sponsors Fees

Recommendation S. No. 11 (para 11, part II)

9. The Committee had recommended that there is an imperative need to lay down some guidelines in regard to method of selection of sponsors, the type of services to be rendered by them, the extent and the manner of payment to be made to them to ensure that the Company really gets the services for which large payments are made.

10. In their reply, Government have stated that the Company was taking all possible measures to see that only sponsors with proper background are selected for assisting them in tendering for overseas projects in future. For this purpose, the Company has already constituted a Committee of three senior Managers to make their recommendations. The recommendations of the Committee of the senior Managers would be put up to the Board of EPI for approval. Thereafter, EPI would issue necessary guidelines in the matter.

11. The Committee desire that the departmental Committee constituted for the purpose should expedite their report and necessary guidelines issued early.

D. Labour Mobilisation

Recommendation S. No. 15 (para 15, part II)

12. The Committee had noted that there had been complaints about malpractices like demanding of money by the labour agents for sending the workers abroad. In a specific complaint received by EPI in spite of the fact that involvement of some of the employees of EPI in labour mobilisation Bureau was suspected, no action was taken against them except their transfer from the Mobilisation Bureau. The Committee desired that the departmental investigations in this case which were stated to be still going on should be completed soon and action taken against the delinquent officers.

13. The Government in their reply have stated a senior executive of the rank of General Manager of the Company has conducted a preliminary investigation in the case. However, the investigation has not established any *prima-facie* case against any employee of the Company.

14. The Committee are not satisfied with the outcome of the Departmental investigation. Nothing has been stated about the circumstances under which the information about the box office advertisement and list of candidates selected for interview found their way to the agent. This could not have been possible without the connivance of some officials of the Company. They, therefore, suggest that the matter should be investigated by the police as the police did not earlier interrogate any official of the EPI.

E. Resignation of Officials

Recommendation S. No. 19 (para 19, part II)

15. The Committee noted that the officers found responsible for various lapses/malpractices were allowed to resign from EPI. The Committee were surprised at the helplessness expressed by the Secretary of

the Administrative Ministry that in public sector undertakings jobs being in the nature of contract, they could not do anything if a person resigns and stops coming to duty after the expiry of the notice period. They desired that the matter should be gone into by the BPE and suitable safeguards evolved to ensure that the delinquent officials do not go scot free by merely resigning from their posts in public undertakings.

16. In their reply Government have stated *inter-alia* as follows :

“The observations of the Committee have been noted. As desired by the Committee, the recommendation has been examined in consultation with BPE. Government has also been concerned about the loopholes in the existing system under which executives under a cloud could escape prosecutions by invoking the contractual clause as per the terms and conditions of their appointment. A number of measures have since been taken by Bureau of Public Enterprises in consultation with the Ministry of Law, DP & AR and the Central Vigilance Commission. In respect of the incumbents of the top posts, i.e. whose appointment is made by the Government at the Board level, the BPE have advised the administrative Ministries to incorporate a suitable clause in the terms and conditions of appointment indicating therein the Conduct, Discipline and Appeal Rules that would be applicable to such incumbents. Besides, Government has also decided to indicate in the letters of appointment that it reserves the right not to accept the resignation of a Chief Executive|other Executives, if the circumstances so warrant. i.e., if disciplinary proceedings are pending, or a decision has been taken by the Competent Authority to issue a charge sheet to the concerned executive. In respect of the executives below the Board level, the administrative Ministries are being separately advised by BPE that they could suggest to the Managements of the individual public enterprises, to adopt similar measures regarding non-acceptance of the resignation.”

17. The Committee desire that suitable instructions should be issued by the administrative Ministries on the lines of the suggestions made by the BPE early to ensure that the officers found responsible for various lapses|malpractices do not go scot free by merely resigning from their posts in public undertakings and deterrent action is taken against them.

F. Sub-contract for Water Research Centre Project

Recommendation S. No. 21 (para 21, part II)

18. The Committee noted that Hindustan Steel Works Construction Ltd. (HSCL) to whom the work for the project was sub-contracted by EPI in turn engaged a private firm. The purchase order for mero space frames for the roof structure of this project was placed by the associates of the HSCL on a Dubai agent of German firm. The result had obviously been increase in cost and sharing of the margins by both the Dubai agent and the associates. The Committee saw no reason why the order could not be directly placed by HSCL and recommended that the matter required investigation to find out the margin on purchases kept by the associates of HSCL and the justification therefor for appropriate action.

19. In their reply, the Government have stated :—

“In terms of contract between Hindustan Steel Works Construction Limited (HSCL) and its Associates M/s. Syndicate Engineering Co. (SEC) the supply of all the materials required for construction work except cement and steel was to be arranged by the Associates. In terms of above contract, HSCL could not have placed orders direct for the mero space frames.”

As regards margin allowed to the associate firm, it has been stated that :

“HSCL has made enquiries through Indian Consulate General, Dubai regarding the general reputation of M/s. Arabian Oasis Industries in their dealings and also whether they indulge in over invoicing and were allowing a margin out of invoiced prices. Indian Consulate General has reported that this firm enjoys good reputation in Dubai. The firm have claimed that they lost money on this job as a consequence of devaluation of Deutsche Mark against U. A. E. Dirhams.”

20. The Committee are not convinced with the reply furnished by Government. They have not been informed whether any investigation was made in regard to disclosure made by the Deputy General Manager of EPI in his letter dated 21st November, 1981 that the party (Dubai firm) had allocated 20.30 per cent of money to the associates and 79.70 per cent in their sales account which showed that the associates were taking a share in the price fixed with the suppliers to which they were not entitled. It has also not been stated whether charging of higher price by the Dubai firm to the extent of 54 per cent of the invoice price of the German firm was justified. The Committee, therefore, reiterate that the matter should be thoroughly investigated and the Committee informed of the outcome.

CHAPTER II

RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation (Sl. No. 1)

The EPI was established in 1970 with the objective of operating as a prime contracting company for securing industrial projects on turnkey basis both in the country and outside. It, however, embarked upon very large civil construction works abroad in a big way in 1976 without developing the infrastructure necessary for it. There has been clearly mismanagement of Projects. The gainers of the process seem to be the clients, middlemen and sub-contractors besides some unscrupulous officials of the company itself. The Company's accounts disclosed loss of the order of Rs. 21.05 crores during 1978-81. But for the fortuitous gain of Rs. 10.6 crores on account of foreign exchange variations, the loss would have been Rs. 31.67 crores as against the paid up capital of Rs. 88 lakhs. Further there was a net foreign exchange outgo of Rs. 41.51 crores during the last three years of the operation of the company.

(Paragraph No. 1, Part II)

Reply of Government

The observations made by the Committee have been duly noted.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22)|
82-HM. IV Dated 10-1-82]

Recommendation (Sl. No. 2)

The Management of the EPI in regard to the largest contract for Ain Baghze Housing Project at Kuwait (original value Rs. 230 crores) taken up in 1976 is the most glaring example of its performance. In its eagerness to get the contract, the management entered into a totally one sided contract in favour of the clients at unworkably low rates. The loss anticipated in this project is Rs. 34.23 crores. In the case of Council of Ministers Building Project, Baghdad, while the value of the tender as approved by IDBI was Rs. 53.24 crores, the company on its own reduced it to Rs. 32.85 crores in its eagerness to get what it regarded as the prestigious project. In this project the losses anticipated now are Rs. 11.02 crores.

(Paragraph No. 2, Part II)

Reply of Government

The observations of the Committee have been noted. However, it may be mentioned that the circumstances under which the contracts for the two projects viz. Ain Baghze Housing Project and Council of Ministers Building Project were taken, have already been explained during the evidence before the Committee. It is also relevant to add here that EPI's Board of Directors at their meeting held on 29th May, 1982, has already decided that its Overseas Projects Committee of Directors, apart from its involvement in the matters pertaining to implementation of the projects, would also be involved in the bid prices and other Commercial conditions accepted or proposed by the Company through large value tenders for the overseas projects.

[Ministry of Industry, Deptt. of Heavy Industry O. M. No. 5(22)/
82-HM. IV Dated 10-12-82]

Recommendation (Sl. No. 3)

Of the 19 projects each costing above Rs. 5 crores under execution, the Company has slipped up badly in adhering to time schedule and has run into a variety of difficulties. There is expected to be time overrun ranging from 11 to 40 months and a loss of Rs. 41.49 crores on the execution of these projects, leaving aside the claims of associates and the penalties imposed by the clients. In such a situation, it is anybody's guess as to what would be the magnitude of the ultimate losses. The Committee desire that extreme care should be exercised in admitting any claim of the associates and Government should help the company in sorting out its problems with the clients abroad. The need for a crash programme to complete all the works which have been delayed cannot be over emphasised to retrieve the image of the company and to avoid further losses on account of delays.

(Paragraph No. 3, Part II)

Reply of Government

The suggestions of the Committee have been noted for future guidance. The company has already constituted Claims Committees internally for their overseas projects to scrutinise in depth the claims received from their associates. The claims are scrutinised in the light of the provisions contained in the contract agreements between the EPI and its associates on one hand and those contained in the contract agreements between the EPI and the clients on the other. The company has noted for its guidance the suggestion that no false and/or unsubstantiated claims of the associates are admitted.

As regards the EPI's claims on the clients, series of meetings are being held at various levels for sorting the same out. Wherever necessary the company has been seeking the assistance of the Indian Embassies abroad and the Govt. of India.

As regards the need for a crash programme to complete the projects, the Committee's observations have been duly noted. Detailed review in respect of all the projects have been carried out and the balance inputs in terms of ordering and supply of equipment and consumable materials have been identified and action taken. To review the work of various sub-contractors detailed work schedules have been/are being prepared and steps are being taken to resolve the various problems faced by the sub-contractors in regard to repatriation of workers, wages, availability of materials etc. Apart this, periodical reviews of the progress are being carried out. Progress is being monitored closely through information system and periodical reports.

[Ministry of Industry, Deptt. of Heavy Industry O. M. No. 5(22)]
82-HM. IV Dated 10-12-82.]

Recommendation (Sl. No. 4)

Precious little was done until recently to remove the serious organisational and functional deficiencies like lack of well developed in-house capabilities to analyse and estimate projects accurately, absence of organised set up to undertake project analysis, evaluation and preparation of detailed plans and schedules and to exercise proper financial control. The Committee however note that efforts have been made to remove these deficiencies. The reorganisation of Head Quarters has been taken up and new divisions set up to look after various functions. The post of Director (International) created in 1978, which remained vacant has also been filled up. The Committee hope that the organisation will now measure up to the challenges.

(Paragraph No. 4, Part II)

Reply of Government

Development of in-house capability to analyse and estimate projects accurately is now a continuing exercise within the company. Three implementation divisions, one each for overseas projects, home projects and metallurgical projects have been set up under the charge of a Functional Director for undertaking the preparation of detailed plans and work schedules and also to see that the projects are completed expeditiously. In addition to this, a monitoring division is also functioning to monitor the progress on the various projects and report the same to the Chairman & Managing Director of the Company. Financial control has also been strengthened and economy measures taken to avoid unproductive and wasteful expenditure.

[Ministry of Industry, Deptt. of Heavy Industry O. M. No. 5(22)]
82-HM. IV Dated 10-12-82].

Recommendation (Sl. No. 5)

The Board has delegated full powers to tender for and accept contracts irrespective of the value. As conceded by the Secretary during evidence, there should be greater involvement of the Board. The Committee also desire that contracts above certain value should be taken up for execution only after prior approval of the Board. There should be clear guidelines laid down by Government for public undertakings engaged in construction works, for tendering for projects including the margin normally to be included in contracts, expected rate of return on capital employed by such companies etc.

(Paragraph No. 5, Part II)

Reply of Government

The recommendation of the Committee is accepted. The Board has already decided at its meeting held in May 1982 that its Committee of Directors on Overseas Projects, apart from monitoring the implementation of the various overseas projects, would also be involved in the bid prices and other important commercial conditions accepted or proposed by EPI through large value (more than Rs. 40-50 crores) tenders for the overseas projects. In the case of home projects for more than Rs. 20-25 crores also, the Board would be involved.

2. As regards issue of guidelines to all public sector undertakings engaged in the construction work, it is stated that the matter has been considered in consultation with Bureau of Public Enterprises which are the nodal authority for all public sector undertakings. It is felt that the question of tendering for projects and the margins to be allowed in contracts are matters where there would be wide difference depending upon such factors as the nature of the works, type of enterprise, the quantum of work in hand etc. In view of this, general and guidelines may not be either desirable or feasible. In such cases, the concerned administrative Ministry could indicate to the Boards of Enterprises the procedure to be followed by them in such matters.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22)|
82-HM. IV Dated 11-3-1983].

Comments of the Committee

Please see Paragraph 54 of Chapter I of the Report.

Recommendation (Sl. No. 6)

There had been a large number of instances where the delegated powers were exceeded in regard to award of contracts, write off of losses, giving of large gifts and donations. Whatever be the circum-

tances such frequent acts exceeding the authority should be avoided in future.

(Paragraph No. 6, Part II)

Reply of Government

The suggestion of the Committee has been noted for future guidance. Instructions in this regard have also been issued by the company to its heads of divisions and Project Managers in-charge to exercise their powers strictly within the limits delegated to them and to avoid exceeding such powers except in case of urgency when the reasons for the same will have to be recorded in writing.

[Ministry of Industry, Department of Heavy Industry O.M. No. 5 (22)82-HM. IV dt 10-12-1982].

Recommendation (Sl. No. 7)

The system of award of work to sub-contractors left much to be desired. The sub-contractors were selected without inviting even limited tenders. The work was awarded in a number of cases to small contractors who did not have experience in executing big contracts. In a number of cases, only labour contractors were engaged, the EPI having taken the responsibility for supplying material at pre-determined rates with resultant loss on account of price escalation and rejection of materials by the clients. The Committee desire that the various loopholes in awarding the work to sub-contractors should be plugged. In particular the sub-contractors should be selected on back-to-back basis on the same terms and conditions as are settled with the clients to avoid losses to the company.

(Paragraph No. 7, Part II)

Reply of Government

The suggestion of the Committee has been noted and the company has already issued necessary instructions to its contracting|marketing divisions to ensure that while selecting and awarding work to sub-contractors, it should be done on back-to-back basis i.e. on the same terms and conditions as are settled by the company with its clients, so as to avoid losses to the company. While the company will endeavour to stick to this principle of awarding the contracts on back-to-back basis to their sub-contractors|associates, sometimes due to constraints and circumstances beyond the control of the company, and to get competitive and willing associates, there may be situations when it may not be possible to prevail upon the associates|sub-contractors to agree on 100 per cent back-to-back arrangements.

[Ministry of Industry, Deptt. of Heavy Industry OM No. 5(22)82-HM. IV dated 10-12-1982.]

Recommendation (Sl. No. 8)

The company has paid advances to the extent of Rs. 86.90 crores as on 31-3-81 to the sub-contractors out of which Rs. 56.67 crores were unsecured advances. These advances have been paid in spite of the fact that EPI was under no obligation to pay these advances under the contracts entered into with the sub-contractors. The advances were paid generally without prior approval of the Board and ensuring recovery of interest. Clearly there was laxity in financial control and failure to safeguard the interests of the company. The associates have been virtually using the EPI as their banker, a banker who gives unlimited accommodation. Belatedly the IDBI was approached to permit the associates to borrow money directly from banks and IDBI had agreed to lend to associated. The Committee recommend that the practice of giving unsecured advances should end forthwith and steps taken to recover the outstanding amount along with interest expeditiously from all the sub-contractors|associates and the Committee be informed.

(Paragraph No. 8, Part II)

Reply of Government

Ministry of Finance, Deptt. of Banking have been requested by this Deptt. to persuade IDBI|EXIM Bank of consider the request of EPI's sub-contractors|associates for borrowing from the overseas market on merits. If this suggestion is accepted, the practice of giving advances by EPI to its sub-contractors|associates will automatically cease. To obtain compliance of this recommendation of the Committee, it has also been brought to the notice of such other Ministries which have under their administrative control public sector undertakings concernd with construction jobs.

As regards the recovery of outstanding amounts already paid by EPI to its sub-contractors|associates, action on the same can and will be initiated only after the completion of the projects and on the receipt of final bills from them which will be duly scrutinised and adjusted. The claims lodged on EPI by its sub-contractors|associates are separately being examined by the Claims Committee internally set up by the EPI for the purpose. The amount of such claims which may be finally accepted by the company shall be adjusted against outstanding amounts. Interest recovery could thus be only on net amount of advances outstanding from sub-contractors|associates.

[Ministry of Industry, Deptt. of Heavy Industry, OM No. 5(22)|82-
HM. IV Dated 10-12-1982.]

Comments of the Committee

Please see Paragraph 8 of Chapter, I of the Report.

Recommendation (Sl. No. 9)

In order to meet its financial requirements for overseas projects EPI had borrowed as much as Rs. 93 crores from foreign banks largely without prior approval of the General Body is required under the Companies Act. There should not have been such violations of the Companies Act under any circumstances. The IDBI while clearing foreign projects since 1975 fixes borrowing limits as well as the foreign exchange limits for each project. Committee would also like to be informed whether limits were adhered to by EPI and if not, the reasons therefor.

(Paragraph No. 9, Part II)

Reply of Government

The suggestion of the Committee has been noted. It may be stated that in the case of overseas projects, the need for borrowing of funds from foreign banks arises initially at the bid/tendering stage when the clearance of EPI's proposals by the IDBI/EXIM Bank Working Group is obtained for submitting bills. It may be added that against the overall total borrowings of Rs. 92 crores for the various overseas projects both in Kuwait and Iraq, the *past facto* approval was obtained in some cases only involving Rs. 35.03 crores (Rs. 26.60 crores for Kuwait and Rs. 8.43 crores Iraq projects) to regularise the action.

However, in the course of execution of these projects, certain operational difficulties were encountered involving delays in the completion of the projects *vis-a-vis* original scheduled dates, resulting in exceeding the sanctioned overdraft limits. Such difficulties are mainly due to factors beyond the control of the company and vary from project to project. However, whenever such sanctioned limits are exceeded, steps are taken to regularise the same with the EXIM Bank Working Group where the representatives of various Ministries and banking guaranteeing institutions are present. Broadly, the reasons for excess utilisation, over and above the sanctioned limit of overdraft facilities in the past had been, (1) delay in the completion of projects due to Iran-Iraq War resulting in cost and time over-runs and incidental financial charges, (2) release of advances to sub-contractors of EPI to enable them to meet their working expenses since they on their own were not able to raise any loan/overdraft in the foreign countries and (3) delay in the release of payments by the clients against running bills of the company.

[Ministry of Industry, Deptt. of Heavy Industry, OM No. 5(22)82-HM. IV dated 10-12-1982]

Recommendation (Sl. No. 10)

The Committee suggest that there should be a limit to the powers of the public undertakings to borrow money especially in foreign countries even with the approval of general body and any amount

over that limit should be allowed to be borrowed only with the specific approval of Government so that the Government get a chance to examine the justification and the implications.

(Paragraph No. 10, Part II)

Reply of Government

The power of the public enterprises to borrow money is subjected to certain restrictive provisions incorporated in the Companies Act. As far as borrowing abroad is concerned, all companies, whether private or public sector undertakings, have necessarily to obtain Government/RBI approval under FERA and the Exchange Control Regulations.

[Ministry of Industry, Deptt. of Heavy Industry, O.M. No. 5(22)[82-HM. IV Dated 11-3-1983]

Recommendation (Sl. No. 11)

The Company had spent an amount of Rs. 4.65 crores during 1976—81 on items like sponsorship fees, entertainment, sales promotion, gifts and donations. An amount of Rs. 3.45 crores was paid as sponsorship fees for foreign projects. The Committee have been informed that generally in the Middle East a local sponsor is a legal requirement for tendering for projects. Admittedly, the company did not get much help from the sponsors. It should be ensured that due regard is paid to financial propriety and public money is not frittered away. There is therefore, an imperative need to lay down some guidelines in regard to method of selection of sponsors, the type of services to be rendered by them, the extent and the manner of payment to be made to them to ensure that the company really gets the services for which large payments are made.

(Paragraph No. 11, Part II)

Reply of Government

The company is taking all possible measures to see that only sponsors with proper background are selected for assisting them in tendering for overseas projects in future. For this purpose, the company has already constituted a Committee of three senior Managers to make their recommendations, taking into account the following factors :—

- (i) The need for sponsors for a given project and their legal and financial status;
- (ii) Methodology of selection;

- (iii) Type of services both at the pre and post tendering stages to be rendered by them and the quantum of fees for rendering such services;
- (iv) The terms of payment to the sponsors preferably on a stage-wise basis linked up with progress of work and the actual services rendered by them.

The recommendations of the Committee of the senior Managers will be put up to the Board of EPI for approval. Thereafter, EPI will issue necessary guidelines in the matter.

[Ministry of Industry, Deptt. of Heavy Industry, O.M. No. 5(22)|82-HM. IV dated 10-12-82]

Comments of the Committee

Please see Paragraph 11 of Chapter I of the Report.

Recommendation (Sl. No. 12)

Surprisingly, a sum of Rs. 6.20 lakhs has been paid as sponsorship fees for home projects also. The Committee do not approve of payment of such sponsorship fees for home projects and trust that there would be no such payments in future.

(Paragraph No. 12, Part II)

Reply of Government

The company do not intend to appoint any agent/sponsor for Home Projects in future.

[Ministry of Industry, Deptt. of Heavy Industry, O.M. No. 5(22)|82-HM. IV Dated 10-12-82]

Recommendation (Sl. No. 13)

In addition to sponsorship fee, the Company had paid an amount of Rs. 7.27 crores largely to intermediaries out of two funds namely, PCI-EPI common fund and EPI-Fujita fund which were kept out side the accounts of the company without any audit. The committee are not convinced of the need for such separate funds: In ABHP in pursuance of a joint venture agreement entered into in 1976 with PCI, a Japanese Company, it was decided to keep an amount equivalent to 3.5 per cent of the contract value in a common fund for meeting agency charges and sundry expenses, a term which has not been clearly defined. The Board of Directors authorised the then Chairman and/or the General Manager (Finance) to open a bank account for this fund and to operate the same. An amount of

Rs. 651.33 lakhs was spent out of the fund out of which payment of commission to three parties alone accounted for Rs. 583.79 lakhs. A sum of Rs. 1.25 crores was credited to the account of a party who was actually not an agent. Part of the payment was released even before it was due. The decision of a Committee of Directors on 27-5-1977 that the particulars might be got noted in the administrative ministry and the Deptt. of Economic Affairs does not appear to have been carried out. About Rs. 55,000 per month was paid for the salary and house rent for the Project Director. The Committee fail to understand the need to engage an executive on such liberal terms. In the case of EPI-Fujita common fund also created in 1977 payment to the extent of Rs. 75.60 lakhs had been made to the agents etc. The manner of operation of these two funds clearly showed that there was scope for arbitrariness. In order to carry conviction in future at least there should be an arrangement where by the responsibility for operating such funds is shared by more than one senior executive and such funds get audited.

(Paragraph No. 13, Part II)

Reply of Government

The points raised by the Committee in this recommendation have already been clarified during the oral evidence tendered by the Company's officers before the Committee. However, the suggestions and observations made by the Committee that there should be an arrangement whereby the responsibility of operating such company funds is shared by more than one executive and also that such funds are audited have been carefully noted so is to ensure that there is stricter control on such transactions in future.

[Ministry of Industry, Deprt. of Heavy Industry, O.M. No. 5(22)82-HM. IV Dated 10-12-82]

Recommendation (Sl. No. 14)

An area in which there have been not only serious lapses, and laxity of control but also malpractices is the purchases made by the EPI project authorities especially for ABHP. The report of a senior officer in 1980 who made preliminary investigation of malpractices in such purchases made startling disclosures like overbilling with margins having been paid in cash, purchases from parties whose rates were decidedly higher than the prevailing market rates, placing of orders after personal negotiations and visit to the suppliers premises as well as alleged payments of a percentage of the value of the purchased in an Indian bank account of the concerned purchase officer. He had reported that even though such undesirable activities on the part of EPI officials were brought to the notice of higher authorities, no action had been taken against the delinquent official. Another

report on the purchases for an operation of the stone quarry taken on lease for ABHP also pointed out that the facts uncovered established beyond doubt financial irregularities, improprieties and perhaps collusion with the party from whom lease was obtained. Unnecessary heavy equipment and second hand machinery which did not work properly had been purchased in excess of sanction accorded by the Board. The Committee would urge that such a state of affairs should not be allowed to repeat and deterrent action should be taken against the officials found defrauding the company.

(Paragraph No. 14, Part II)

Reply of Government

The observations made by the Committee have been noted.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22) | 82-HM-IV, dated 10-12-82]

Recommendation (Sl. No. 18)

In another case it took about 2 years to decide to make preliminary investigation into the malpractices indulged in by a Purchase Manager in ABHP Project even after the serious irregularities had been brought out in the internal audit report. The investigations established the fact that the Manager misused his official powers and resorted to certain irregular practices with a malafide intention to defraud the company. In the meantime he resigned and his whereabouts were not known. The Committee would like to know what action the company proposed to take in the matter after tracing the whereabouts of the person.

(Paragraph No. 18, Part II)

Reply of Government

Delhi Police have already been requested to locate the whereabouts of the concerned official and after he is traced, the only course open to the company will be to file a suit against him in a court of law for criminal breach of trust.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22) | 82-H.M. IV, dated 10-12-82]

Recommendation (Sl. No. 19)

It is regrettable that the officers found responsible for various lapses/malpractices were allowed to resign from EPI. The Committee are surprised at the helplessness expressed by the Secretary of the Administrative Ministry that in public sector undertakings jobs

being in the nature of contract, they could not do anything if a person resigns and stops coming to duty after the expiry of the notice period. They desire that the matter should be gone into by the BPE and suitable safeguards evolved to ensure that the delinquent officials do not go scot free by merely resigning from their posts in public undertakings.

(Paragraph No. 19, Part II)

Reply of Government

The observations of the Committee have been noted. As desired by the Committee, the recommendation has been examined in consultation with BPE. Government has also been concerned about the loopholes in the existing system under which executives under a cloud could escape prosecutions by invoking the contractual clause as per the terms and conditions of their appointment. A number of measures have since been taken by Bureau of Public Enterprises in consultation with the Ministry of Law, DP & AR and the Central Vigilance Commission. In respect of the incumbents of the top posts, i.e. whose appointment is made by the Government at the Board level, the BPE have advised the administrative Ministries to incorporate a suitable clause in the terms and conditions of appointment indicating therein the Conduct, Discipline and Appeal Rules that would be applicable to such incumbents. Besides, Government has also decided to indicate in the letters of appointment that it reserves the right not to accept the resignation of a Chief Executive/ other Executives, if the circumstances so warrant, i.e., if disciplinary proceedings are pending, or a decision has been taken by the Competent Authority to issue a charge sheet to the concerned executive. In respect of the executives below the Board level, the administrative Ministries are being separately advised by BPE that they could suggest to the Managements of the individual public enterprises to adopt similar measures regarding non-acceptance of the resignation.

2. The system of induction and appointment in the public enterprises with a view to preventing the undesirable elements getting selected for appointment has also been streamlined. In this context also, BPE had suggested to the public enterprises to introduce the system of verification of character and antecedents, as it is in force in the Central Government. The Bureau had also suggested that each public enterprise should ask the applicant to give vital details of his previous employment in the attestation form. The applicant was also required to indicate the circumstances under which the previous employment came to be terminated. Wherever it was indicated that the employee had tendered resignation, the circumstances under which resignation was given could be ascertained from the previous employer. Government has also suggested to PSUs that if the vital

information in this regard was not indicated in the attestation form it was left to the discretion of the Management not to consider the candidature of the applicant for employment in the concerned enterprise.

3. So far as Engineering Projects (India) Ltd. is concerned, all these guidelines issued by the Government are being complied with. Every employee in this Company is required to give complete information in the prescribed attestation form at the time of joining the company. His antecedents are also simultaneously verified in accordance with the procedure prescribed by the company.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22)|82-HM. IV, dated 11-3-1983]

Comments of the Committee

Please *see* Paragraph 17 of Chapter I of the Report.

.... Recommendation (Sl. No. 20)

The Committee hope that in future the management would not shield any corrupt official, inspired by an exaggerated notion of preserving the company's image abroad. In the process what is sacrificed is the country's and its tax payers interest.

(Paragraph No. 20, Part II)

Reply of Government

The observations made by the Committee have been noted for future guidance.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22)|82-HM-IV, dated 10-12-82].

Recommendation (Sl. No. 22)

Despite the Ministry's direction in November, 1977 to take up projects having substantial supply of equipment and less of civil works in view of greater margin on equipment, it is regrettable that there has been no appreciable shift in this direction. The Committee hope that in future greater care would be exercised and only such projects taken up for execution which would enable the company to get adequate return on capital employed and help in earning foreign exchange.

(Paragraph No. 22, Part II)

Reply of Government

The observations made by the Committee have been noted for future guidance.

[Ministry of Industry, Department of Heavy Industry O.M. No. 5(22)|

82-HM-IV, dated 10-12-82].

Recommendation (Sl. No. 23)

The Administrative Ministry does not appear to have taken the review of the performance of the Company seriously in as much as only 4 meetings were held during 1977-80, although according to the existing requirement 12 meetings should have been held. The performance of the Company could have been better had the performance appraisal by the Ministry been regular and meaningful.

(Paragraph No. 23, Part II)

Reply of Government

The performance review meetings regarding EPI are generally held in the Ministry at periodic intervals. During the years 1980-81 and 1981-82, seven performance review meetings were held. However, the observations of the Committee to hold such meetings more frequently have been duly noted.

[Ministry of Industry, Deptt. of Heavy Industry O.M. No. 5(22)|

82-HM.IV, dated 10-12-82].

CHAPTER III

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

Recommendation (Sl. No. 17)

In one case two officers were arrested by the local police in Kuwait in a case of alleged sharing of fees settled with a local consultant firm for certain engineering services to be rendered by the firm to the company. A senior officer of the company went from the Headquarters and got them released. The management may have had its own reasons for this action but it was expected of it to make at least departmental enquiry promptly. The committee would like to know it was not done.

(Paragraph No. 17, Part II)

Reply of Government

In view of the fact that proceedings had already been initiated in a Kuwaiti Court, it was not considered fit by EPI to conduct a parallel departmental inquiry. Later, the Kuwaiti Court decided the case in favour of the company and also held that EPI officers were innocent of the charges made against them. The amount involved in the case was also refunded to the Company. In these circumstances, it would be appropriate that the then management of the company did not consider it fit to initiate a departmental enquiry subsequently as well.

[Ministry of Industry, Department of Heavy Industry Q.M. No. 5(22)
82-HM-IV, dated 10-12-82].

CHAPTER IV

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

Recommendation (Sl. No. 15)

There have been complaints about malpractices like demanding of money by the labour agents for sending the workers abroad. In a specific complaint received by EPI in spite of the fact that invocation of some of the employees of EPI in labour mobilisation bureau was suspected, no action was taken against them except their transfer from the Mobilisation Bureau. The Committee desire that the departmental investigations in this case which are stated to be still going on should be completed soon and action taken against the delinquent officers.

(Paragraph No. 15, Part II)

Reply of Government

A senior executive of the rank of General Manager of the Company has conducted a preliminary investigation in the case. However, the investigation has not established any *prima-facie* case against any employee of the company.

[Ministry of Industry, Department of Heavy Industry O.M. No. 5(22)/82-HM-IV, dated 10-12-82].

Comments of the Committee

Please see Paragraph 14 of Chapter I of the Report.

Recommendation (Sl. No. 21)

The Committee went into the purchase of mero space frames for water research centre project, Baghdad, Hindustan Steelworks Construction Ltd. (HSCL) to whom the work for the project was sub-contracted by EPI, in turn engaged a private firm. The purchase order for mero space frames for the roof structure of this project was placed by the associates of the HSCL on a Dubai agent of a German firm. The result has obviously been increase in cost and sharing of the margin by both the Dubai agent and the associates. The Committee see no reason why the order could not be directly placed by HSCL. The matter required investigation to find out the margin on purchases kept by the associates of HSCL and the justification therefor for appropriate action.

Reply of Government

In terms of contract between Hindustan Steelworks Construction Limited (HSCL) and its Associates M/s. Syndicate Engineering Co. (SEC) he supply of all the materials required for construction

work except cement and steel was to be arranged by the Associates. In terms of above contract, HSCL could not have placed orders direct for the mero space frames.

The enquiries made by HSCL from the M/s. Mero-Raumstruktur GmbH & Co. Wurzburg, West Germany, reveal that the Associates could have placed orders direct with the manufacturers. HSCL could have at best advised the Associates to place direct orders but it could not have forced them to do so in terms of its contract with them.

The value of the order placed for the mero space frames together with 10 per cent custom duty was less than the original contract price between Engineering Projects (India) Limited (EPI) and HSCL. The question of price of the mero space frames being excessive was not raised by EPI. There was no other data available to HSCL to indicate that the price offered was excessive in comparison with market price of these materials. The price also included the erection charges by the suppliers, namely, Arabian Oasis Industries. At the time the order for these was placed, HSCL had no indication regarding its Associates getting a margin from M/s. Arabian Oasis Industries, Dubai.

HSCL has made enquiries through Indian Consulate General, Dubai regarding the general reputation of M/s. Arabian Oasis Industries in their dealings and also whether they indulge in over involving and were allowing a margin out of invoiced prices. Indian Consulate General has reported that this firm enjoys good reputation in Dubai. The firm have claimed that they lost money on this job as a consequence of devaluation of Deutsche Mark against U.A.E. Dirhams.*

(Paragraph No. 21, Part II)

[Ministry of Steel and Mines, Department of Steel, O.M. No. 1(9)82-HSM dated 24-1-1983].

Comments of the Committee

Please see Paragraph 20 of Chapter I of the Report.

*At the time of factual verification, The Ministry of Steel and Mines (Department of Steel) further intimated as follows:—

“Further enquiries have been made by the Dep'tt. of Steel through the Consulate General of India, Dubai. The Managing Director of M/s. Arabian Oasis Industries has informed Indian Consulate General that it has not paid any kick back to SEC in respect of orders for Mero space frames etc. supplied to SEC. Information gathered by the Indian Consulate General through confidential sources further shows that in so far as Arabian Oasis Industries is concerned out of a total price of DM 3,313,141 for supply and erection of Mero space frames etc., the direct cost of materials from different suppliers; engineering and coordination charges; over head, finance, insurance and other costs and erection cost amounted to DM 3,010,000 and M/s Arabian Oasis Industries made a profit of DM 303,141 in this transaction. This information will also show that the margins on purchases have not been passed on by M/s. Arabian Oasis Industries to SEC.”

[Ministry of Steel and Mines; Department of Steel O.M. No. 1(9) /82—HSM dated 28-3-1983

CHAPTER V

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

Recommendation (Sl. No. 16)

The Committee were also informed that the Labour Ministry had been considering the question of having a new Emigration Act, the major thrust of which would be to control the malpractices of the agents. They desire that this should be expedited to stop exploitation of workers going abroad.

(Paragraph No. 16, Part II)

Reply of Government

The Labour Ministry have informed that the proposal to introduce the Emigration Bill is still under their consideration.

[Ministry of Industry, Department of Heavy Industry O.M. No. 5(22)|
82-HM-IV, dated 10-12-82].

NEW DELHI,
April, 1983.

Chaitra 14, 1905 (Saka).

MADHUSUDAN VAIRALE,
Chairman

Committee on Public Undertakings

APPENDIX

(Vide Para 3 of the Introduction)

Analysis of the action taken by Government on recommendation contained in the 50th Report of the Committee on Public Undertakings (Seventh Lok Sabha) on Engineering Projects (India) Ltd.

I. Total number of recommendations	23
II. Recommendations that have been accepted by the Government (Vide recommendations at S. Nos. 1,2,3,4,5,6,7,8,9,10,11,12,13,14,18,19,20,22,23,	19
Percentage to total	82.60%
III. Recommendation which the Committee do not desire to pursue in view of Government's reply (Vide recommendation at S. No. 17)	1
Percentage to total	4.35%
IV. Recommendation in respect of which replies of Government have not been accepted by the Committee (Vide recommendations at S. Nos. 15 and 21)	2
Percentage to total	8.70%
V. Recommendation in respect of which final replies of Government are still awaited (Vide recommendation at S. No. 16)	1
Percentage to total	4.35%