

COMMITTEE ON PUBLIC UNDERTAKINGS (1980-81)

(SEVENTH LOK SABHA)

EIGHTH REPORT

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

ON

STRUCTURE OF BOARDS OF MANAGEMENT OF PUBLIC UNDERTAKINGS AND OTHER ALLIED MATTERS

*Presented to Lok Sabha on 23 MAY 1981
Laid in Rajya Sabha on*



LOK SABHA SECRETARIAT
NEW DELHI

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COMMITTEE ON PUBLIC UNDERTAKINGS

(1980-81)

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

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(1980-81)**

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7. Shri B. K. Nair

INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this 8th Report on Action Taken by Government on the recommendations contained in the 20th Report of the Committee on Public Undertakings (Sixth Lok Sabha) on Structure of Boards of Management of Public Undertakings and other Allied Matters.

2. The 20th Report of the Committee on Public Undertakings was presented to Lok Sabha on 23 March, 1979. Replies of Government to all the recommendations contained in the Report were received on 26 December, 1980. The replies of Government were considered by the Action Taken Sub-Committee of the Committee on Public Undertakings on 23 February, 1981. The Report was finally adopted by the Committee on Public Undertakings on 26 February, 1981.

3. Analysis of the Action Taken by Government on the recommendations contained in the 20th Report of the Committee is given in Appendix II.

NEW DELHI;
February 28 1981
Phalguna 9, 1902 (S).

BANSI LAL,
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 Twentieth Report (Sixth Lok Sabha) of the Committee on Public Undertakings on Structure of Boards of Management of Public Undertakings and Other Allied matters which was presented to Lok Sabha on 23rd March, 1979.

2. Action Taken notes have been received from Government in respect of all the 14 recommendations contained in the Report. These have been categorised as follows:—

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

Serial Nos. 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14.

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

Nil.

(iii) *Recommendations/observations in respect of which Government's replies have not been accepted by the Committee.*

Serial No. 5

(iv) *Recommendations/observations in respect of which final replies of Government are still awaited.*

Serial Nos. 1 and 2.

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

A. *Continuity of Top Appointments.*—Recommendation (Sl. No. 3, paragraphs 3.5 to 3.7).

4. The Committee had pointed out the need to ensure continuity and stability of top appointments. The Committee further pointed out that the average tenure of Chairman/Managing Director was less than two years in a number of cases, besides vacancies remaining unfilled for considerable length of time, though the general

policy of Government was to have a tenure of 5 years in top positions of public enterprises. They observed that if men were properly screened with reference to their qualifications, experience and aptitude for empanelment for appointment to top positions, premature termination of appointment would not be there.

5. The Committee also observed that it would be essential to place a successor in position six months ahead so that he could equip himself to take over the top position and be ready with his own future plans for the enterprise.

6. The Government in their reply have stated that the procedure for selection of persons for top level posts in the public enterprises has been streamlined by the Government since August, 1974. A Public Enterprises Selection Board is constituted for a specified tenure from time to time. As part of this procedure a close watch is kept on the vacancy position and advance action is taken to finalise the selection. However, it is not always possible to anticipate all likely vacancies in top level posts, particularly those which arise due to resignation or premature termination of appointment or where the incumbent has to be transferred to another job for administrative reasons.

7. The reply of the Government does not quite indicate the steps taken to see that the chief executives get a reasonable tenure, say, 5 years, and vacancies, for whatever reason, are not allowed to remain unfilled beyond a reasonable period. In this connection, the Committee would like to refer to recent criticisms in and outside Parliament about a number of board level posts in public undertakings remaining vacant for a long time. One would, therefore, be right in holding an impression that the procedures for selection and making appointments have not yet been properly streamlined. The Government should therefore, address themselves to this task forthwith and evolve a timetable for filling up the posts speedily in order to ensure continuity and smooth changes in top management. Incidentally, the Committee would like to reiterate that it is essential to place a successor in position 6 months ahead so that he could equip himself to take over the top position and be ready with his own future plans of action. . .

B. Size and Composition of Board of Directors.—Recommendation (Sl. No. 5, paragraph 4.6).

8. The Committee had pointed out that although the relevant Acts in the case of statutory corporations and the Articles of Asso-

ciation in the cases of Government companies indicate the strength of the Board, there was a very wide gap between the minimum and maximum number of directors laid down. Further, the composition of the Board and the nature of non-official directors on the Board did not seem to have been indicated in most of the Articles of Association of the Government companies. The Committee, therefore, suggested that the Articles of Association should be suitably amended without delay to provide for a closer range of membership of the Board and to lay down requirements of the members wherever necessary. As regards the latter the Committee commended the provisions in respect of the IDBI.

9. In reply, the Government have stated that the matter was reviewed by Government in 1972 and it was decided that in a multi-unit and multi-regional enterprise, the strength of the Board could be of the order of 12 to 15. In relatively smaller enterprises, the Board's strength could be 8 and 11. So far as qualifications of the members of the Board are concerned, Government have already accepted the recommendation made by the Administrative Reforms Commission that part-time members from outside the Government should be persons with proven ability in the fields of industrial, commercial, or financial enterprises in administration or in trade union organisations. However, it is difficult to lay down the qualifications in the Statutes or Articles of Association. It has been further added that the IDBI pattern is not quite relevant for constituting the Boards of Management of public undertakings.

10. The Committee were of the view that in order not to allow any arbitrariness and wide fluctuations from time to time in the matter of appointments to the boards of public undertakings, a closer range of membership should be laid down in the relevant statutes or Articles of Association, besides specifying the interests to be represented. In a few cases noticed by the Committee, the range of membership prescribed under the Articles of Association was from 2 to 15. Further, unlike in the case of Industrial Development Bank of India, generally only the number of directors has been prescribed without showing in detail the interests that a given number of directors should represent on the boards. In this connection, the Committee are unable to agree with the Government that it is difficult to lay down the qualifications in the statutes or Articles of Association. They would reiterate that suitable amendments should be made, wherever necessary, to provide for closer range of membership specifying broadly the various fields and interests to be represented.

C. Nomination of Government officials to Boards of Directors.—Recommendations (Sl. Nos. 6, 7, 9, 10 and 11—Paragraphs 5.7 to 5.10, 6.3 to 6.5 and 7.10).

11. In these paragraphs the Committee had dealt with the practice of loading the Boards with Government Directors, the nomination of one Government official to too many Boards and the appointment of Secretaries to Government as members of the Boards and of Secretaries or other officers as part-time Chairmen as well as consequences thereof.

Government have in their reply stated as follows:—

“The observations of the Committee have been noted. In this context, it may be submitted that the Government policy evolved on the basis of the recommendations made by the Administrative Reforms Commission, *inter-alia* stipulate that not more than two Government representatives would be appointed on the Boards of Management of Public Enterprises. Government had also taken a decision that no officer of the Ministry would be made Chairman of the Public Enterprises nor would the Secretary of a Ministry be included into Boards of Management. The latter restriction was to operate only in respect of industrial and commercial undertakings. The number of directorships which could be held by a Government official were also normally not to exceed two. The Government, however, did not agree with the ARC that the nominees of the Government on the Boards of Management of Public Enterprises should come from other Ministries and a conscious decision was taken that representatives of the Government, not below the rank of a Joint Secretary/Director, should be on the Boards by virtue of their office.

* * * *

“There has, however, been some departures from the general policy whereby in some enterprises the number of Government nominees on the Boards of Management of Public Enterprises as well as the number of Directorship held, individually by Government nominees exceeded the above mentioned limits. In some cases, Government officers below the level of Joint Secretary/Director were also appointed on the Boards of Directors.

A few Secretaries to the Government of India were also looking after the affairs of the enterprises as part-time

Chairman or were nominated on their Boards due to the peculiar circumstances of the enterprises. The position in respect of the latter has since undergone a change as per the details given in the Annexure, (Appendix I) although in some other companies, Secretaries have been appointed as part-time members of the Board."

12. The Committee had inter-alia recommended that the composition of all the boards should be reviewed with a view to altering it in a manner that was productive of results and cutting down the number of official directors to the barest minimum in the light of their observations. In reply, the government have merely noted the observation of the Committee and stated the general policy without any clear commitment for a review of the position. The Committee, therefore, are constrained to stress the need for a review and restructuring of the Boards in the light of their suggestions without further delay.

D. Representation of workers on the Boards.—Recommendation (Serial No. 8, paragraph 5.11).

13. The Committee stressed the need to have a broadbased Board of Directors which should be composed of various interests. They had particularly desired that the decision in regard to participation of workers' representative in the Board should be taken early and suitable representation of workers on the Boards ensured.

14. In reply, Government have stated *inter alia* that a Committee on workers' participation in Management and Equity was appointed by the Government in 1977. The Committee submitted its report in 1979 recommending adoption of the three-tier system of participation *viz.*, at the corporate level, plant level and shop-floor level and that the Labour Ministers' Conference which was held in New Delhi in July, 1980 generally endorsed the committee's recommendations on Workers' Participation. It has been added that the scheme of workers' participation at the shop and plant levels introduced by the Government in October, 1975 and January, 1977 has been by and large implemented in all public enterprises, but so far as participation at corporate level is concerned, it has yet to make any headway.

15. The Committee had stressed that a decision in regard to the representation of workers on the Boards of industrial enterprises should be taken early. They, however, note that the participation of workers at the corporate level has yet to make any headway.

They desire that Government should give practical shape to the recommendations in this regard of the Committee on Workers' Participation in Management and Equity without further loss of time.

E. Sitting Fee for part time non-official Directors of the Boards.—

(Recommendation Serial No. 14, paragraph 10.2)

16. The Committee noticed that in certain public undertakings, the sitting fee for the Directors was as high as Rs. 200/250. The Committee desired that if any guidelines had not been issued in regard to payment of sitting fees and other allowances to the part-time non-official directors, these should be done forthwith and the payment of the D.A. should not exceed Rs. 100/- in any case.

17. In reply, Government have stated that the present practice is to allow the non-official Members on the Boards of Public Enterprises a sitting fee which ranges from Rs. 100/- to Rs. 150/- for each meeting of the Board of Directors, irrespective of number of days spent on such meetings.

18. The Committee desire that as already suggested by them, suitable guidelines should be issued to the public undertakings through the BPE for regulating the payment of sitting fees to the non-official directors of the board on a fairly uniform basis.

CHAPTER II

RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation (Sl. No. 3)

The Committee very much regret to note that in a democracy where legislature is an important organ of the State, their recommendations have gone unheeded which will be seen from the following facts:

The Committee have time and again pointed out the imperative need to ensure continuity and stability of top appointments. The general policy of Government is to have a tenure of 5 years in top positions of public enterprises. In actual practice however there have been far too many changes which are bound to affect the working of the enterprises. A test check by the Committee has shown that the average tenure of Chairman/Managing Director is less than two years in a number of cases, besides vacancies remaining unfilled for considerable length of time. Such a situation can only be attributed to defective selection methods.

If men are properly screened with reference to their qualification, experience and aptitude for empanelment for appointment to top positions, premature termination of appointments would not be there. Further by now public enterprises themselves should be in a position to throw up men to man such position. Such men with the potential to run an enterprise should be identified fairly early to assume the responsibility. It would also be essential to place a successor in position six months ahead so that he could equip himself to take over the top position and be ready with his own future plans for the enterprise.

(Paragraph 3.5 to 3.7)

Reply of Government

The observations of the Committee are unexceptionable. In this context, it may, however, be mentioned that the procedure for selection of persons for top level posts in the Public Enterprises

has been stream-lined by the Government since August, 1974. A Public Enterprises Selection Board is constituted for a specified tenure from time to time. As part of this procedure a close watch is kept on the vacancy position and advance action is taken to finalise the selections. It may, however, be mentioned that it is not always possible to anticipate all likely vacancies in top level posts, particularly those which arise due to resignation of premature termination of appointment or where the incumbent has to be transferred to another job for administrative reasons. Government have, however, issued instructions that unless markedly better candidates are available from outside, vacancies in the top posts will be filled from within the enterprises. It has also been stipulated that P.E.S.B. would assist the public enterprises in adopting organisational structures which makes such promotions possible.

It may be added that the P.E.S.B. is a high-powered body and comprises of persons of repute and experience. While screening the candidates for appointments to full-time top posts, the Board takes into consideration the qualifications of the incumbents with reference to the specific job requirements and their past record. Eligible persons in the Public Sector, Government Services and Private Sector, subject to satisfaction of the essential qualifications, experience and aptitude could be considered for appointment by the Board.

[Ministry of Finance, Bureau of Public Enterprises, O.M. No. 3 (2)/
79—BPE (GM-I), dated 26th December, 1980]

Comments of the Committee

Please see paragraph 7 of Chapter I of the Report.

— Recommendation (Sl. No. 4)

The Committee have indicated earlier that the Boards of Management of Public Enterprises should include besides the Chief executive, Functional Directors and part-time Government as well as non-official Directors. The minimum size of the Board would thus be somewhere around 7 and maximum would go upto 11 depending upon the nature of the enterprise. There should not be any arbitrariness in fixing the strength of the Board from time to time.

(Paragraphs 4:5)

Reply of Government

The Administrative Reforms Commission in their Report (October 1967) on 'Public Sector Undertakings' recommended that the Board of Management of the Public Enterprises should consist of, besides of a full-time Chairman-cum-Management Director and one or two Functional Directors, Government representatives not exceeding two and part-time Members from outside the Government, not exceeding 2 or 3. The Commission, however, did not specify the size of the Board of Management of the Public Enterprises. The policy was, however, reviewed by the Government at the highest level in 1972 and it was decided that in a multi-unit and multi-regional enterprise, the strength of the Board could be of the order of 12 to 15. In relatively smaller enterprises, the Board's strength could be between 8 and 11 including official and non-official part-time Directors, the number of the latter being one third of the total. The Public Enterprises Selection Board also held the view in December 1977 that the Board should be compact and their number could go upto 15 in exceptional circumstances. The size of the Board should not be related to the size of the Company, but rather to the type of the enterprises, the nature of its activities and its current stage of growth.

[Ministry of Finance, Bureau of Public Enterprises, O.M. No. 3 (2) /79-BPE (GM-I), dated 26th December 1980].

Recommendations (Sl. Nos. 6, 7, 9, 10 & 11)

Rec. No. 6: The Committee note with concern that despite a decision taken by the Government that only in exceptional cases and for good reasons the number of official representatives on the Boards of Management may be allowed to exceed two, the tendency seems to be to load the Boards with officials without any rhyme or reasons. Out of 145 enterprises studied by the Committee, in 39 cases where the strength of the Board ranged from 4 to 15 the number of part-time official Directors ranged from 4 to 12. This does not go well with the concept of autonomy and the nature of the activities of the public enterprises. In fact, this proves that the public undertakings enjoy little autonomy.

To quote a few glaring examples, the Water and Power Development Consultancy Services India Ltd., Telecommunications Consultancy India Ltd., Cotton Corporation of India, Hindustan Cables Ltd., and National Instruments Ltd. have only official Directors numbering 4 to 12. These are almost wholly Central Government officials. Thus the Boards have been converted into mere inter-departmental Committees of Government and nothing else. The Committee do not find any reason why there is virtually no other representation on these Boards.

An inherent danger in gross over-representation of the officials on the Board is, the number of enterprises being large, the same official of a Ministry is represented on a number of Boards making it impossible to have any worthwhile contribution. The Committee have dealt with this question elsewhere in this Report. They wonder whether there was any watch over this position centrally in Government, say in the Bureau of Public Enterprises. They are of the view that the composition of all the Boards should be immediately reviewed with a view to altering it in a manner that is productive of results and cutting down the number of official Directors to the barest minimum.

Rec. No. 7: There is no need to nominate representatives of all the Departments/Ministries connected with the activities of a particular enterprise to its Board. A minimum number of, say, two, officials should be able to represent the Government interest for real active participation.

Rec. No. 9: It passes the comprehension of the Committee how whole-time Government officials could be appointed to a very large number of Boards of public enterprises which in some cases is as high as 10 to 12. For instance an integrated Financial Advisor of the Ministry of Industry is associated with 11 Boards and Additional Secretary of the Ministry of Industry is associated with 12 Boards. Such officers would not obviously be in a position to do justice to their work either in Government or in the Boards of the enterprises.

The policy of the Government peculiarly enough seems to be to necessarily have the official dealing with the particular enterprise and a finance representative on the Board of that enterprise. Although it may be that the officer dealing with an enterprise can have a first-hand knowledge of that enterprise when nominated to the Board of that enterprise, there cannot be an objective scrutiny by him in the Ministry of the decision of the Board to which he has been a party nor can there be an independent appraisal of the working of the enterprise in the Ministry. Further with every change in the dealing office there will be a change in the Directorship. The policy therefore needs a change. The Committee strongly feel that Government representatives should be selected on the basis of their ability and experience and not by virtue of the office that they hold in a particular Ministry. In this connection attention is drawn to paragraph 150(2) (iii) of the 2nd Report of CPU (Sixth L. S.), presented to Lok Sabha on 11-4-1978, mentioning a case wherein admittedly official

part-time Director has no experience of being on the Board and had merely become a party to decisions taken by the Board. In any case if the policy of having the dealing officer on the Board results in an absurd situation of his having to be nominated to a large number of Board the practice must end immediately.

Rec. No. 10: There ought to be rigid restrictions on the number of directorships of the officials if their participation in the management of public sector enterprises is not to be reduced to a farce or a mere formality. The Committee would strongly urge that as a matter of policy, which should be strictly adhered to, no particular officer of any Ministry or Department should be appointed to serve as part-time director on more than two public enterprises.

Rec. No. 11: As clearly as 1961 Government had decided that no Secretary of Ministry/Department should be a Member of any Board of Public Enterprises. The Committee have also been consistently holding the view that no officer of the Ministry should be made the Chairman and no Secretary to Government should be appointed to the Board as a Director. They have given cogent reasons why this should not be done from the point of view of ensuring real autonomy of the public enterprise as well as objective appraisal of the working of these enterprises by the Ministries. The Administrative Reforms Commission has also recommended in its Report (1967) that no officer of the Ministry should be made a Chairman nor the Secretary of the Ministry be included in the Board of Management. In spite of all this the Committee find that in as many as 10 enterprises various officials of the Ministries, mostly Secretaries have been appointed as Chairman and in 5 enterprises Secretaries have been nominated as Directors. The Committee are unable to find any reason why this practice should continue violating the policy of the Government. The Committee therefore, require that this practice should end forthwith. For healthy functioning of the Public Sector Enterprises and objective appraisal by the Administrative Ministry concerned it should be ensured that no official whosoever of that Ministry should be a party to a decision taken by the Boards of the Public Enterprises. In other words, the official representation in the Board should come as far as possible from some other Ministry not being the controlling Ministry. The present incumbents should vacate their positions immediately and other suitable persons as recommended earlier should be found and in future there should be no such appointment to the Board of Managements of Public Enterprises, which is not sound in principle.

(Paragraphs 5.7 to 5.9, 5.10, 6.3 to 6.4 & to 6.5)

Reply of Government

The observations of the Committee have been noted. In this context, it may be submitted that the Government policy evolved on the basis of the recommendations made by the Administrative Reforms Commission, *inter alia* stipulate that not more than two Government representatives would be appointed on the Boards of Management of Public Enterprises. Government had also taken a decision that no Officer of the Ministry would be made Chairman of the Public Enterprise nor would the Secretary of a Ministry be included into Boards of Management. The latter restriction was to operate only in respect of industrial and commercial undertakings. The number of directorship which could be held by a Government official were also normally not to exceed two. The Government however, did not agree with the ARC that the nominees of the Government on the Boards of Management of Public Enterprises should come from other Ministries and a conscious decision was taken that representatives of the Government, not below the rank of a Joint Secretary/Director, should be on the Boards by virtue of their office.

2. Appointments of Directors including Government Directors on the Boards of Enterprises is made in accordance with a well established procedure, with the approval of the highest authority. There is enough safeguard in the existing system to ensure that the Government, Directors appointed on the Boards of Management are those who can discharge their responsibility satisfactorily, at the same time taking care of the interests of the Government. It is to be noted that Government Directors besides providing direction and superintendence to the company as members of the Board also provide a link between the Government and the enterprise. In the performance of this link role, they are expected to contribute towards harmonisation in the area of general policy formulation, overall performance evaluation and improvement, investment appraisal, financial management and industrial relations. However, as members of the Board, they have to be a party to the decisions taken by the Boards of the enterprises.

3. There have been some departures from the general policy, depending upon the circumstances of each case, where by the number of Government nominees on the Boards of Management of Public Enterprises as well as the number of Directorship held individually by Government nominees exceeded the above mentioned limits. In some cases, Government officers below the level of Joint Secretary/Director were also appointed on the Boards of Directors.

A few Secretaries to the Government of India were also looking after the affairs of the enterprises as part-time Chairmen or were nominated on their Boards due to the peculiar circumstances of the enterprises. The position in respect of the latter has since undergone a change as per the details given in the Annexure (Appendix I) although in some other companies, Secretaries have been appointed as part-time members of the Board.

[Ministry of Finance, Bureau of Public Enterprises, O.M. No. 3 (2)/79-BPE(GM-1), dated 26-12-1980]

Comments of the Committee

Please *see* paragraph 12 of Chapter I of the Report.

Recommendation (Sl. No. 8)

The Committee have been stressing the need to have a broad based Board of Directors which should be composed of various interests (barring from private sector) and experience both in Government and in legislatures and of men of public standing, academicians journalists, economists, sociologists professionals etc. They have particularly desired that the participation of workers' representatives in the Board should be ensured with a view to promote industrial harmony and maximise production. It should be remembered that the public sector enterprises employ nearly 2 million persons and that labour is an important factor of production. There should be always an emphasis on labour-oriented technology and creating conditions in which the workers could give their best. The Committee notice that the question of representation of workers on the Boards of Industrial Enterprises was being pursued by the Department of Labour and Employment. They would insist that a decision in this regard should be taken early and suitable representation of workers on the Boards ensured.

(Paragraph 5.11)

Reply of Government

On the basis of the recommendations made by the Administrative Reforms Commission in their Report (October 1967) on 'Public Sector Undertakings', the Government had taken a decision as early as 1968-69 that there is no objection in principle to a representative of the workers being included on the Board. However, he should be

one actually working in the undertaking. To begin with such representation of workers was to be tried in the case of industrial units only and not in the case of financial and commercial undertakings.

2. To begin with, a few selected Public Enterprises, such as National Instruments Ltd., Hindustan Antibiotics Ltd., Hindustan Organic Chemicals Ltd., inducted representatives of workers as Directors on their Boards on an experimental basis. Subsequently, in all these enterprises, the scheme was discontinued. From time to time, a few other public enterprises also put on their Boards a worker-Director. In these enterprises also for one reason or the other the scheme could not be continued. As such headway could not be made in this direction, a Committee on workers participation in Management and Equity was appointed by the Government in 1977. The Committee submitted its Report in 1979 recommending adoption of the three-tier system of participation viz., at the corporate level, Plant level and Shop-floor level. The Labour Ministers' Conference which was held in New Delhi in July 1980 generally endorsed the Committee's recommendations on Workers Participation. The Conference also suggested for giving legislative support to the scheme of workers participation. The need for making adequate arrangements for educating the workers so as to equip them to play their part in the participative forums was also considered essential. The Conference also endorsed that the selection of workers representatives should be through secret ballot. It may also be added that the scheme of workers participation at the shop and plant levels introduced by the Government in October 1975 and January, 1977 has been by and large implemented in all public enterprises. So far as participation at corporate level is concerned, it has yet to make any headway.

[Ministry of Finance, Bureau of Public Enterprises,
U.O. No. 3(2)/79-BPE(GM-I), dated 26-12-1980.]

Comments of the Committee

Please see paragraph 15 of Chapter I of the Report.

Recommendation (Sl. No. 12)

In their earlier Report (12th Report) (4th Lok Sabha) presented to Parliament on 19-4-1968 and 40th Report (5th Lok Sabha) presented to Parliament on 5-9-1973, the Committee have amply cautioned Government against associating with public enterprises non-officials connected with a large number of private companies, especially competitive concerns. The Administrative Reforms Commission has

also pointed out that the non-official members of the Boards of Public Enterprises should have faith in public sector and should not have such business or other interests as may affect their objectivity in their discharge of duties on the Boards. In practice, the Committee is most distressed to note that Government have chosen to select people who are champions of private ownership and enterprises who develop vested interests. This set of people could possibly never have genuine faith and interest in the public sector enterprises and therefore should be debarred from becoming members of Boards of Directors.

A selective check by the Committee of the association of non-official Chairman/Directors with private concerns has revealed that in some cases the members are so much directly pre-occupied with a number of private concerns which is as high as 38 in one case. For instance, 3 Directors of the Bharat Leather Corporation are connected with 69 private concerns between them. It is one of the major reasons why the Corporation is facing ruination today. In the case of Rehabilitation Industries Corporation Ltd. the Chairman is surprisingly connected with as many as 34 private concerns.

The Committee would like to know whether a thorough enquiry was made to verify the personal integrity of non-officials who are appointed as Directors in Public sector undertakings. Such enquiries ought to have been made from Enforcement Directorate, Central Board of Director taxes and Central Board of Excise and Customs and similar other departments and organisations for verifying their antecedents particularly to find out whether they are involved in any economic offences. In the case of appointment of even subordinate Government employees intensive enquiries are made by the Police but in these cases of appointments of Directors of public sector undertakings, who are to act as trustees, the Committee have reasons to apprehend that no verification is made at the time of appointment. It seems to have been only on the basis of the strength of the interested lobby.

While it is a certainty that the non-official businessmen derive immense benefit through their association with the public enterprises, the Committee apprehend that their presence affect the proper functioning of the enterprises. The Committee, therefore, require that no person from private sector should be selected for Directorship.

(Paragraphs 8.7 to 8.10)

Reply of Government

In this context it may be mentioned that as early as 1968-69 Government, on the basis of recommendations made by the Administrative Reforms Commission in their Report (October, 1967) on Public Undertakings, had taken a decision that part-time Members from outside Government would be nominated on the Boards of Management of Public Enterprises on the basis of their proven ability in the field of industrial, commercial or financial enterprises or in administration or in trade union organisations. The Government also decided in October, 1972, that the services of those drawn from the private sector who have volunteered for full-time appointment in Public Enterprises and considered fit and empanelled to hold such top level posts in public enterprises would be advantageously utilised for making appointment on part-time basis. Even under the present dispensation appointment of part-time non-official Directors are made after obtaining the approval of the highest authority in the Government. Before finalising its proposals, the Ministry concerned consults the Chairman of the public enterprises and gives due weight to his opinion. The Ministry could also seek the advice of the P.E.S.B. Administrative Ministries are being advised of the observations of the Committee in this regard.

[Ministry of Finance, Bureau of Public Enterprises
O.M. No. 3 (2) /79-BPE (GM-I) dated 26th December, 1980]

Recommendation (Sl. No. 13)

The unsoundness of the practice followed by the Government in regard to the composition of the Boards of Management and selection of the Members of the Board could be seen from even a small thing like attendance at the Board meetings. The attendance at the meetings of the Board of an enterprise is an index of the interest evinced by their members in the affairs of that enterprise. In the past the Committee have repeatedly called attention of the Government to the thin attendance at the meetings of various Boards and urged that those who have not shown interest should be weeded out. From the record of proceedings of the Boards of Management of a few enterprises available with the Committee, it is seen that the attendance was not even 50 per cent of the strength of the Boards on many occasions. This disturbing situation can only be attributed to the appointment of those persons as part-time Directors who are otherwise busy or who clearly lack interest in the affairs of the enterprise concerned. What is more disturbing is the extent of non-participation by the Government Directors themselves. For instance

in the Central Fisheries Corporation over a period of a year and 4 months no Government Directors attended the meetings of the Board on 6 occasions. The Committee have no doubt in their mind that unless the Board of an enterprise is a homogenous and dedicated team answerable to people periodically it cannot succeed which is evident from the fact that the performance of the public sector undertakings had hardly been good and had lately recorded sharp deterioration.

(Paragraph 9.7)

Reply of Government

The desirability of regular attendance by the Board members in the meetings of the Board of Directors of public enterprises, which should be attended by adequate number of Directors appointed by the Government, is fully recognised. In view of this, the Government would agree with the above recommendation. Administrative Ministries/Departments are being advised accordingly.

[Ministry of Finance, Bureau of Public Enterprises O.M. No. 3 (2)/79-BPE (GM-I), dated 26th December, 1980].

Recommendation (Sl. No. 14)

The Committee are unable to find any justification why particularly in the case of Bolani Ores Ltd., Manganese Ore India Ltd., and Mysore Porceleins Ltd. the sitting fee for the Director should be so high as Rs. 200/250. The Committee wonder whether any guidelines have been issued in regard to payment of sitting fees and other allowances to the part-time non-official Directors. If these have not been issued, it should be done forthwith and the payment of the D.A. should not exceed Rs. 100/- in any case.

(Paragraph 10.2)

Reply of Government

The present practice is to allow the non-official Members on the Boards of public enterprises a sitting fee which ranges from Rs. 100/- to Rs. 150/- for each meeting of the Board of Directors, irrespective of number of days spent on such meetings. In rare cases, sitting fees are also payable for attending meetings of the Committees of the Board. It may incidentally be mentioned that as at present there

is no non-official director on the Board of Bolani Ores Ltd. or Man-gance Ore India Ltd. Mysore Porceleins Ltd. have since merged into Bharat Heavy Electricals Limited.

[Ministry of Finance, Bureau of Public Enterprises
O.M. No. 3 (2)/79-BPE (GM-I) dated 26th December, 1980]

Comments of the Committee

Please see paragraph 18 of Chapter I of the Report.

CHAPTER III

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

NIL

CHAPTER IV

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

Recommendation (Sl. No. 5)

Although the relevant Acts in the case of Statutory Corporations and the Articles of Association in the cases of Government Companies indicate the strength of the Board, the Committee have noticed that there is a very wide gap between the minimum and the maximum laid down. Further the composition of the Board and ability of non-official Directors on the Board do not seem to have been indicated almost in all the Articles of Associations of the Government Companies. The Committee suggest that the Articles of Association should be suitably amended without delay to provide for a closer range of membership of the Board and to lay down requirements of the members wherever necessary. They would commend the provisions in respect of the Industrial Development Bank of India for adoption with such modification as is necessary in other cases. In defining the composition of the Board, the need to have adequate representation of the Members of Parliament as stressed earlier in this Report, should be taken into account. (Paragraph 4.6).

Reply of Government

The Administrative Reforms Commission in their Report (October 1967) on 'Public Sector Undertakings' recommended that the Board of Management of the Public Enterprises should consist of, besides a full-time Chairman-cum-Managing Director and one or two Functional Directors, Government representatives not exceeding two and part-time Members from outside the Government, not exceeding 2 or 3. The Commission, however, did not specify the size of the Board of Management of the Public Enterprises. The policy was, however, reviewed by the Government at the highest level in 1972 and it was decided that in a multi-unit and multi-regional enterprise, the strength of the Board could be of the order of 12 to 15. In relatively smaller enterprises, the Board's strength could be

between 8 and 11 including official and non-official part-time Directors, the number of the latter being one third of the total. The Public Enterprises Selection Board also held the view in December 1977 that the Board should be compact and their number could go upto 15 in exceptional circumstances. The size of the Board should not be related to the size of the Company, but rather to the type of the enterprises, the nature of its activities and its current stage of growth.

2. So far as qualifications of the Members of the Board are concerned, Government have already accepted the recommendations made by the Administrative Reforms Commission that part-time Members from outside the Government should be persons with proven ability in the fields of industrial, commercial, or financial enterprises, in administration or in trade union organisations. However, it is difficult to lay down the qualifications in the Statutes or Articles of Association. The arrangement has worked quite satisfactorily.

3. The example of the IDBI cited by the Committee for adoption by the public enterprises is not quite apt. According to the IDBI Act 1964, as amended from time to time, the Chairman and a Managing Director is appointed by the Central Government and a Deputy Governor of the Reserve Bank is nominated by the Reserve Bank of India. Not more than 20 Directors are nominated by the Central Government of whom—

- (i) two Directors would be the officers of the Central Government;
- (ii) not more than five Directors shall be from financial institutions;
- (iii) two Directors shall be from the employees of the IDBI and the financial institutions—one workman and other officer;
- (iv) not more than six Directors from State Bank, Nationalised Banks and State Financial Corporation; and
- (v) not less than five Directors shall be persons who have special knowledge of and professional experience in

Science, Technology, Economics, Industry, Industrial Co-operatives, Law, Industrial Finance, Investment, Accountancy, Marketing, or any other matter, the special knowledge of and professional experience which would be in the opinion of the Central Government be useful to the IDBI.

The IDBI pattern, therefore, is thus not quite relevant for constituting the Boards of Management of Public Enterprises.

[Ministry of Finance, Bureau of Public Enterprises, O.M. No. 3 (2)/79-BPE(GM-I), dated 26th December, 1980].

Comments of the Committee

Please see paragraph 10 of Chapter I of the Report.

CHAPTER V

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

Recommendation (Sl. No. 1)

The success of public sector depends largely on their Boards of Management and how they function. A time has come to review the structure, the size and the composition of the Board of Management with a view to see how far these are conducive to achieving the results expected. The Boards of Management of public enterprises are at present hardly policy-making bodies. Major Policies and crucial decisions are made by the Government which are to be implemented by the Boards. The Boards of Management of public enterprises do not have much or final say in drawing up the policies. The Boards have, therefore, to be necessarily of a mixed character, partly policy formulating but largely functional. This has been well recognised by the Study Team of the Administrative Reforms Commission which examined the public sector undertakings. The Commission had recommended that a Board should consist of a full-time Chairman-cum-Managing Director, a few full-time functional Directors, not more than two Government representatives and two or three part-time Members from outside the Government.

The information obtained by the Committee from 179 public enterprises reveals that in a majority of cases there are no functional Directors at all. Further, in 14 cases where there is a full time Chairman there is no Managing Director and in ten cases where there is a part-time Chairman there is no Managing Director. In a few cases both the Chairman and the Managing Director are part-time appointees. All this shows that the structure of the Board as is obtaining today is not at all what it ought to be. The Committee have discussed the size and the composition of the Board in the succeeding sections of this Report.

The Committee had occasion to go into the top appointments in the context of their examination of the Central Inland Water Transport Corporation. In their 9th Report (6th Lok Sabha presented to Lok Sabha on 26th April, 1978), they had recommended that the

necessity of having a part-time Chairman and full-time Managing Director should be examined. Strongly enough even in the context of the miserably deteriorating performance of the public sector undertakings the Government have not considered it necessary to have this arrangement as a rule. The Committee find that in as many as 83 public undertakings there is a Chairman-cum-Managing Director. In the context of imperative need to have a mixed type of Board it is absolutely necessary to have a separate Managing Director in addition to a part-time Chairman.

(Paragraph 2.4 to 2.6)

Reply of Government

The structure, the size and composition of the Board of Management of the public enterprises has been reviewed by the Government from time to time. The Administrative Reforms Commission in their Report (October 1967) on 'Public Sector Undertakings' had recommended that the Board should consist of a—

- (a) full-time Chairman-cum-Managing Director; and
- (b) full-time Functional Directors. Their number depending on the needs of the case.

2. In pursuance of the said recommendation, the Government had decided that as a normal rule, there should be full-time Chairman-cum-Managing Director. However, there might be exceptions where the Chairman might be only a part-time one. In such cases, there should be full-time Managing Director. It was also decided by the Government that even where the Chairman is part-time, he should take on the full responsibility and should be invested with the full authority. There should, however, be no diffusion of authority between the Chairman and the Managing Director. In respect of the full-time Functional Directors the Govt. had decided that in larger units full-time Functional Directors may be appointed, who will be Executive Heads of their departments. The pattern of working could be somewhat on the lines of the Railway Board. The Government at the same time recognised that more there was need for decentralisation of powers not only between Government and the Board of Directors but within the undertaking itself.

3. The policy was again reviewed in 1976-77 and 1978. It was noted that unlike the foreign countries where it is the practice to have a two-tier system of a part-time Board, which is concerned with giving policy directions and evaluating the performance of the Executive and a Executive Board, which is incharge of implementation,

the Boards of public enterprises, in the Indian context, have policy-cum-executive responsibility. A good deal of the responsibility for the policy formulation and direction, the evaluation of performance etc. vest with the Government, i.e., the administrative Ministry, the Finance Ministry and the Planning Commission. The Government has also the responsibility to evaluate the personal performance and contribution of the Chief Executive. The Government have adequate powers to check any abuse of authority on the part of the Chief Executive, whether he is Chairman-cum-Managing Director or Managing Director.

4. In this context it was considered that the institution of a part-time Chairman could lead to a diffusion of responsibility and accountability undermining managerial efficiency and effectiveness. Personality conflicts between part-time Chairman and the Chief Executive may also develop to the detriment of the company's functioning. The part-time Chairman could also intervene in day-to-day activities often posing a problem for the Chief Executive. The dividing line between day-to-day activities and policy matter is often very thin. It is a well laid down principle of Management that accountability has to be accompanied by necessary authority. The institution of a part-time Chairman may undermine this principle. It is also admitted that much depends on the individuals concerned and also upon the extent of interest which other Directors take. It is also recognised that there may be circumstances where it would be preferable to separate the office of the Chairman and the Managing Director. However, having regard to various other considerations, the Committee's recommendation in favour of adopting the pattern of having a part-time Chairman and a full-time Managing Director as a rule, is being examined again.

5. As regards Functional Directors, Government policy is that for large multi-unit enterprises and large trading organisations, the Chief Executive could be assisted by at least two Functional Directors, one of whom would be incharge of Finance, and other part-time Directors. In the case of smaller enterprises, Chief Executive could be assisted by one, and possibly even two senior officers of the undertaking as Functional Directors together with some part-time Directors, one of the Functional Directors could, if necessary, be designated as Executive Director or Director Coordination. However, it may be mentioned that the performance of public enterprises is periodically reviewed by the Government. The Government also makes an assessment about the necessity of appointing Full-time Functional Directors on the Boards of Management of the enterprises on periodical basis. The size of the operations of an

enterprise, the capital investment, the trade in which the enterprise is engaged and the period for which the enterprises have been in operation are some of the factors which are taken into consideration by the Government for taking a decision about the need to appoint Functional Directors on the Boards of their Management.

[Ministry of Finance, Bureau of Public Enterprises, O.M. No. 3 (2), 79-BPE (GM-I), dated 26th December, 1980].

Recommendation (Sl. No. 2)

The post of Chairman should not be an office of profit and an elected representative of the people i.e. a Member of Parliament could be made the Chairman. The Board of Management should consist of about one-third of Members taken from amongst Members of Parliament, one Member not being associated with more than two Boards at a time. The tenure of Members of Parliament on the Board should be three years. In this connection, the Committee wish to point out that in governing bodies of autonomous institutions such as Tea Board, Tobacco Board, etc., the Members of Parliament are represented. The reason behind this is that an elected representative is answerable to the people with regard to success and failure in the sphere in which he is called upon to take up responsibility. However, it is to be noted that in today's context a Member of Parliament has hardly been given any assignment through which he can give an account of himself. It will be wholly undesirable to nominate to the Board superannuated and aged persons and persons who are not acquainted with the requirements of an industry or trade or economic operation relevant to the activities of a particular public sector undertaking. The Committee have noted with great disappointment that some of Directors drawn from inside Government have acted more as a mere 'Ditto Men' and have hardly taken pains to examine and understand things in depth for successful working of the public undertakings. There are instances where a particular official has been made Director of a number of public undertakings, and besides his routine job, due to paucity of time and human limitations he is, even if willing unable to apply his mind and/or to act to the best of his ability. The Committee are very firmly of the opinion after seeing the results of decades of trial that the time has come when peoples' elected representatives should have greater involvement in productive work in a democracy such as ours.

(Paragraph 27)

Reply of Government

The question as to whether Members of Parliament or State Legislators could be appointed on the Boards of Management of Public Enterprises or not was examined by the Krishnan Menon Committee in their Report on 'State Undertakings'. The issue was also re-examined by the Government at the highest level in 1972, 1976-77 and 1978. It was decided that the policy to exclude the sitting Members of Parliament from the Board of Directors of the Public Enterprises does not call for any change. This decision was based on the understanding that the appointment of representatives of people on the Boards of Public Enterprises would lead them to compromise their responsibility to Parliament and Legislature in regard to evaluation of performance of these organisations. The parallel drawn by the CPU about the appointments of M.Ps. on the governing bodies of autonomous institutions like Tea Board, Coffee Board, etc. does not seem quite apt in the case of Public Enterprises. However, having regard to various other considerations, the Committee's recommendation that the M.Ps. should be involved in the public undertakings as part-time Chairman or as part-time Directors, is being examined again.

2. The full-time Members of the Board are appointed by the Government for a specified tenure i.e. 5 years or till the date of superannuation whichever is earlier. Extension of the tenure beyond superannuation of the incumbents of the top posts is allowed only in exceptional cases, depending upon the circumstances of each case. In regard to the appointment as part-time non-official Directors, there is no age of superannuation and in such cases the maturity and experience of the persons of suitable calibre and expertise are kept in view in selecting them. However, here too the appointment is for a limited period and part-time Members on the Board are not entitled to honoraria or remuneration other than the normal sitting fees.

3. The criteria for nominating Government officers on the Boards of Management of Public Enterprises as also their role at the deliberations of the meetings of the Board of Management has been covered in the Government reply to recommendations Nos. 6, 7, 9, 10 and 11.

[Ministry of Finance, Bureau of Public Enterprises, O.M. No. 3 (2) /79-BPE (GM-I), dated 26th December, 1980].

NEW DELHI,
February 28, 1981

Phalgun 9, 1902 (Saka).

BANSI LAL,
Chairman,
Committee on Public Undertakings.

APPENDIX--I

(Vide para 11, Page 5 of Chapter I and Page 14, Chapter II)

STATEMENT SHOWING THE LATEST POSITION IN RESPECT OF 15 ENTERPRISES IN REGARD TO THE APPOINTMENT OF GOVERNMENT SECRETARIES—ON THEIR BOARD OF DIRECTORS *(Vide Page 11 of 1)*

1. Electronic Corporation of India	Part-time Chairman, retired Govt. Officer has been appointed.
2. Central Warehousing Corporation	Post is lying vacant.
3. Andaman & Nicobar Islands Forests & Plantation Dev. Corp. Ltd.	The Chief Commissioner Andaman & Nicobar Islands is the ex-officio Chairman of the Corp. He is not of the rank of the Secretary to the Govt. of India. There is, however, a full-time Managing Director to look after the day-to-day work of the Corporation.
4. Dredging Corpn. of India.	Post of the part-time Chairman is lying vacant.
5. Electronics, Trade & Technology Development Corp. Ltd.	A full-time CMD has been appointed.
6. Housing & Urban Dev. Corpn.	A full-time CMD has taken over.
7. Indian Railway Constn. Co.	A retired Govt. officer has been appointed as part-time Chairman.
8. Indian Rare Earths Ltd.	Full-time Chairman- <i>sum</i> -Managing Director has taken over.
9. State Fertiliser Corporation	A full-time Chairman to look after the affairs of the two Corporations has been appointed.
10. National Seeds Corporation	A full-time Chairman to look after the affairs of the two Corporations has been appointed.
11. A.R.D.C.	An officer of the RBI is nominated on the Boards of Management of these enterprises.
12. I.D.B.I.	An officer of the RBI is nominated on the Boards of Management of these enterprises.
13. Rail India Technical & Economic Services (I) Ltd.	Retired official has been appointed as part time Chairman.
14. S.A.I.L.	Full-time Chairman has been appointed JS, Department of Steel is a Member of the Board.
15. Trade Fair Authority	Secretary, Deppt. of Commerce, continued to be the part-time Chairman-Shri Mohd. Yunus has taken over the Chairmanship of the Authority <i>w.e.f.</i> '23-4-1980.

APPENDIX II

(Vide Para 3 of introduction)

Analysis of action taken by Government on the recommendation contained in the Twentieth Report of the Committee on Public Undertakings (Sixth Lok Sabha).

I.	Total number of recommendations made	14
II.	Recommendations that have been accepted by Government (vide recommendations at Sl. Nos. 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14)	11
	Percentage to total	78.6%
III.	Recommendations which the Committee do not desire to pursue in view of Government's reply.	Nil
IV.	Recommendations in respect of which replies of Government have not been accepted by the Committee (vide recommendation at S. No. 5)	1
	Percentage to total	7.1%
V.	Recommendations in respect of which final replies of Government are still awaited (vide recommendation at Sl. Nos. 1 and 2.)	2
	Percentage to total	14.3%