

**PUBLIC ACCOUNTS COMMITTEE  
(1975-76)**

**(FIFTH LOK SABHA)**

**HUNDRED AND EIGHTY-FIFTH REPORT**

**INDIAN AGENTS' COMMISSION**

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 160th Report (Fifth Lok Sabha) on paragraph 42 of the Report of the Comptroller and Auditor General of India for the year 1972-73, Union Government (Civil) —Department of Supply]



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NEW DELHI**

*November, 1975/Agrahayana, 1897 (S)*

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 REPORT OF THE PUBLIC ACCOUNTS COMMITTEE  
 (1975-76) PRESENTED TO LOK SABHA ON  
 12TH JANUARY, 1976.

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**PUBLIC ACCOUNTS COMMITTEE**  
**(1975-76)**

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Shri H. N. Mukerjee

**MEMBERS**

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3. Shri Chandulal Chandrakar
4. Shri Chandrika Prasad
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19. Shri Gulabrao Patil
20. Shri T. K. Srinivasan
21. Dr. K. Mathew Kurian
22. Shri Rabi Ray.

**SECRETARIAT**

Shri H. G. Paranjape—*Chief Financial Committee Officer.*  
Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

## INTRODUCTION

1, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Hundred and Eighty-fifth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Hundred and Sixtieth Report (Fifth Lok Sabha) on paragraph 42 of the Report of the Comptroller and Auditor General of India for the year 1972-73, Union Government (Civil)—Department of Supply regarding Indian Agents' Commission.

2. On the 3rd June, 1975 an 'Action Taken Sub-Committee', consisting of the following Members, was appointed to scrutinise the replies from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

Shri H. N. Mukerjee	<i>Chairman</i>
Shri V. B. Raju	<i>Convener</i>
Shri Priya Ranjan Das Munsi	} <i>Members</i>
Shri Darbara Singh	
Shri N. K. Sanghi	
Shri Rabi Ray	
Shri Raja Kulkarni	
Dr. K. Mathew Kurian	

3. The Action Taken Sub-Committee of the Public Accounts Committee (1975-76) considered and adopted this Report at their sitting held on the 7th November, 1975. The Report was finally adopted by the Public Accounts Committee on the 24th November, 1975.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report.

5. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Comptroller and Auditor General of India.

NEW DELHI;  
November 24, 1975.  
Agrahayana 3. 1897(S).

H. N. MUKERJEE,  
*Chairman,*  
*Public Accounts Committee.*

## CHAPTER I

### REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations/observations contained in their 160th Report (Fifth Lok Sabha) on Paragraph 42 of the Report of the Comptroller & Auditor General of India for the year 1972-73, Union Government (Civil) dealing with Indian Agents' Commission, which was presented to the Lok Sabha on the 23rd April, 1975.

1.2. Action Taken Notes in respect of all the 17 recommendations contained in the Report have been received from Government.

1.3. The Action Taken Notes on the recommendations of the Committee have been categorised as follows:—

- (i) Recommendations/observations that have been accepted by Government.  
Sl. Nos: 2, 5, 8, 12, 14, 16 and 17.
- (ii) Recommendations/observations which the Committee do not like to pursue in the light of the replies received from Government.  
Sl. Nos: 7, 11 and 15.
- (iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration.  
Sl. Nos: 1, 3, 4, 6, 9 and 10.
- (iv) Recommendations/observations in respect of which Government have furnished interim replies.  
Sl. No: 13.

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

#### **Divergent Rates of Agency Commission (Paragraph 1.45—Sl. No. 1)**

1.5. Commenting on the widely divergent rates of commission paid to the Indian agents by the foreign suppliers in respect of different purchases of fertilisers made by the India Supply Mission,

Washington, the Committee, in paragraph 1.45 of the Report, had observed:

"The Committee find that widely divergent rates of commission are being paid to Indian agents by foreign suppliers in respect of different purchases of fertilisers by the India Supply Mission, Washington. A test check by Audit of 44 agreements executed by the Mission, in 1971-72 and 1972-73, revealed that the Indian agents' commission varied between 0.03 per cent and 1.41 per cent of the f.o.b. value in 43 cases in which the commission had been intimated by the Indian agents on behalf of their principals. No after-sales service is involved in the case of fertiliser imports and the commodity is also taken over by the Fertiliser Corporation of India as soon as the vessels touch Indian shores. The Secretary, Department of Supply also stated during evidence tendered before the Committee that the Indian agents are of no help and the little service rendered by them in making enquiries about the supply is also of no significance at all. Under these circumstances, the Committee are indeed surprised to learn that Government have not made any attempt to ascertain the rationale for these rates. It would appear that the encouragement given by the Government to Indian agents is tantamount to granting patronage to private parties."

1.6. In their Action Taken Note dated the 1st November, 1975, on the above observation of the Committee, the Department of Supply have replied:

"The Supply Department has not, in fact, given any encouragement to Indian Agents of fertiliser suppliers. As was brought out in the evidence given before the PAC, the Supply Department recognises that no after-sales service is required for fertilisers and that Indian Agents have no role to play *vis-a-vis* the purchaser (Supply Department). On the other hand, the Agent may be performing duties helpful to the foreign Principal (supplier) both before and after actual sales. The Principal presumably fixes the remuneration to the Agent on the basis of such assistance rendered by the Agent to the Principal. The Supply Department has no legal power to compel the foreign supplier not to employ an Indian Agent, or not to remunerate him. However, the Supply Depart-



ment has tried to ensure that whatever remuneration is paid is declared by the supplier and further that the actual payment to the Agent is not made in foreign currency. The Supply Department has no means, however, of checking any wilful evasion by the Principal or the Agent in this matter. However, in recent years the Supply Department has tried to eliminate Indian Agents altogether by dealing direct, as far as possible, with the various foreign suppliers."

1.7. In the opinion of the Committee, the reply of the Department of Supply confirms their earlier conclusion that the role played by the Indian agents in regard to the purchase of fertilisers from abroad is of little, if any, use. The Department has also admitted that it has no means of checking wilful evasion by the Principal or the Agent in regard to undisclosed payments of agency commission or of preventing such payment in foreign currency. Under the circumstances, the Committee must reiterate their observation regarding the failure of Government even to ascertain the rationale for the widely divergent rates of commission.

1.8. The Committee have been informed by the Department of Supply, with reference to another recommendation of theirs contained in paragraph 1.61 of the Report, that the Government of India have decided that, from 1st August, 1975, the work relating to procurement of fertilisers from regions other than East European countries would also be handled by the Minerals and Metals Trading Corporation, in addition to its existing responsibility of procuring fertilisers from the East European countries. The Committee expect that with this transfer of the entire work to the Corporation, all dealings in regard to purchase of fertilisers would be handled directly with the foreign producers of fertilisers and the superfluous middlemen agents and suppliers altogether eliminated. The Committee would be watching with interest the performance of the Minerals and Metals Trading Corporation in this regard.

**Non-Disclosure of Commission Payable to Indian Agents (Paragraphs 1.46 to 1.48—Sl. Nos. 2 to 4)**

1.9. Commenting on the non-disclosure in a few cases, of the commission payable to the Indian agents in the agreements, the Committee, in paragraphs 1.46 to 1.48 of the Report, had observed:

1.46. "Though the Department of Supply have maintained that the commission actually declared is paid to the agent only

in rupees and, therefore, no foreign exchange angle is involved, the Committee are concerned to note that the agents' commission had not been disclosed initially in two cases, test checked by Audit, as required under the standard conditions of contract. In one case (Socotra International Private Ltd., New Delhi), the Indian agent had repeatedly declined to disclose the commission and had also gone to the extent of pressing upon the principal (Agrico-Chemical Company, Oklahoma, USA) not to do so. A disclosure of the Commission payable had been made by the agent only after persuasion. Further enquiries with the supplier, however, revealed a different position. While the Indian agent had disclosed the commission as US dollar 0.30 per metric tonne, the foreign supplier had subsequently intimated the commission as US dollars 1.25 per metric tonne. It is also surprising that in respect of two subsequent contracts entered into by the India Supply Mission, Washington, with a fully-owned subsidiary company of the foreign supplier who had executed the earlier contract, the agency commission payable to Socotra International Private Ltd. had been provided as US dollar 0.50 per metric tonne as against the rate of US dollar 0.30 per metric tonne provided in the contract mentioned in the Audit paragraph and the rate of US dollars 1.25 per metric tonne intimated by the foreign supplier in that case."

- 1.47. "In the second case pointed out by Audit, the initial agreement had been executed without indicating the commission payable to the Indian agent (Voltas Ltd., New Delhi). The agreement was subsequently amended providing agency commission at US dollar 0.75 per metric tonne, which worked out to 1.41 per cent of the C & F value. Here also the foreign suppliers had not stated anything regarding agency commission payable, despite the clear provision in this regard in the standard conditions of contract."
- 1.48. "For the information relating to the contracts for the purchase of fertilisers executed by the India Supply Mission, Washington during 1970—74 (upto September, 1974) furnished by the Department of Supply, the Committee observe that the commission payable to the Indian agents had not been indicated in two contracts executed in 1971, in two contracts in 1972, in one case in 1973 and in one case in 1974 (Socotra International Private Ltd., New Delhi

were the Indian agents in the last two cases). The Committee are also not aware whether in respect of other contracts executed by the Mission, the commission had invariably been disclosed at the outset itself or only upon enquiries by the Mission. This non-divulgence of the agency commission payable leads the Committee to believe that there is a tendency on the part of the foreign suppliers and the Indian agents to avoid disclosing the commission for avoiding payment of tax with the object of accumulating foreign exchange abroad by violating the Foreign Exchange Regulations Act."

1.10. In their Action Taken Notes dated the 1st November, 1975 relating to the above observations of the Committee, the Department of Supply have stated that the observations have been 'Noted'.

1.11. The Committee are surprised to observe that in their Action Taken Notes relating to the observations contained in paragraphs 1.46 to 1.48 of the 160th Report (Fifth Lok Sabha), the Department of Supply should have merely chosen to say that the observations have been 'noted'. In paragraph 1.47 of the Report, the Committee had drawn specific attention to the non-observance of the provisions of the standard Conditions of Contract relating to the disclosure of the agency commission payable by the foreign supplier to an Indian agent, Voltas Ltd., New Delhi, while in paragraph 1.48, the Committee drew attention to five cases in which Commission had not been disclosed and had, inter alia, observed that they were not aware whether in respect of other contracts executed by the India Supply Mission, Washington, the commission had been invariably disclosed at the outset itself or only upon enquiries by the Mission. The replies of the Department, unfortunately, do not indicate what action, if any, Government have taken or intend to take in regard to the observations of the Committee. The reply in respect of paragraph 1.48 is also silent in regard to the position relating to the other contracts executed by the Supply Mission at Washington. The Committee deplore these deficiencies in the replies furnished by the Department of Supply and call for a more specific clarification in respect of the doubt raised in paragraph 1.48.

1.12. Besides, the Committee would draw the pointed attention of Government to an earlier and categorical recommendation of theirs contained in paragraph 1.15 of the 5th Report (Fourth Lok Sabha), which is reproduced below:

"In respect of a number of recommendations which have been included in Appendix IV, the Committee observe that the

Ministries have replied as 'noted'. It is not clear from such replies as to what specific action Government have taken or intend to take to give effect to the Committee's recommendations in letter and spirit. The Committee desire that Government's replies should be explicit and self-contained. In particular, where remedial measures are called for, the details of action taken should be specifically spelt out."

The Committee trust that the recommendations would evoke a more positive response from Government in future.

Receipt of Agency Commission abroad in foreign exchange—examination from foreign exchange and taxation angles—Liaison and coordination between different agencies of Government—(Paragraphs 1.49 & 1.52—SI. Nos. 5 & 8).

1.13. Observing that it was most likely that many of the Indian agents arranged to receive their commission directly from the foreign suppliers abroad in foreign exchange which was not repatriated and was likely to be utilised for impermissible purposes, the Committee, in paragraph 1.49, had recommended:

"It is most likely that many of the Indian agents arrange to receive their commission directly from the foreign suppliers abroad in foreign exchange which is not repatriated and is likely to be utilised for various purposes. The Secretary, Department of Supply, has also stated that if the entire amount received as commission by the Indian agents was not revealed Government would not know about it and that he was not aware whether information on receipt of amounts not specified in the contract was made available to the Government. It has also been stated by the representative of the Reserve Bank of India that unless the Bank was informed of the cases in which commission was receivable, the Bank cannot exercise any check on the repatriation of the amounts, if any, received abroad. He has also stated that no procedure exists for checking invisible transactions. The Committee are unable to accept the contention of the Department of Supply that no foreign exchange angle is involved. The Committee desire that this aspect should be examined thoroughly by the Ministry of Finance, Central Board of Direct Taxes, in consultation with the Reserve Bank of India and the Enforcement Dir-

ectorate, both from the foreign exchange and from the taxation angles and measures taken to plug the loopholes."

1.14. In their reply dated the 1st November, 1975, the Department of Supply have stated:

"As this concerns several Departments, it has been decided to form a working group consisting of representatives of the Department of Supply, Department of Economic Affairs, Ministry of Commerce, Ministry of Defence, Railway Board, P & T Board and the Central Board of Direct Taxes, Director of Enforcement, Reserve Bank of India. The Group will examine the entire question of agency arrangement of the Indian agents and suggest appropriate regulatory and control measures. Government will take suitable action in the light of the Group's recommendations."

1.15. A note dated 13th August, 1975 received from the Ministry of Finance (Department of Revenue & Insurance) in this regard is reproduced below:

"This is a general recommendation regarding suspected evasion/avoidance of taxes, of resident assesseees having dealings with foreign concerns. A Working Group has been set up with the Director General of Revenue Intelligence and Investigation as the convener to study in greater depth this problem and its ramifications on the economy of the country with particular reference to the leakage of foreign exchange and evasion of taxes. The other members of the Group are representatives of the following Departments:

1. Reserve Bank of India.
2. Central Board of Direct Taxes.
3. Department of Economic Affairs.
4. Department of Supply.
5. Railway Board.
6. Posts & Telegraphs Board.
7. Ministry of Commerce.
8. Ministry of Defence.
9. Directorate of Enforcement.

The terms of reference of this Working Group are as follows:

- (a) To examine the entire question of the agency arrangement of the Indian agents and to suggest appropriate rectificatory and control measures;
- (b) To suggest measures to prevent the misuse of foreign exchange so that no foreign exchange reserves are built up by such agents; and
- (c) To suggest steps to prevent evasion of taxes and/or breach of foreign exchange Regulations.

Appropriate action will be taken on receipt of the report of the Working Group."

1.16. The reply\* received in this regard from the Department of Personnel & Administrative Reforms, Cabinet Secretariat on 25th August, 1975 is as follows:

"The question of co-ordination had been taken by the Ministry of Finance and a working group with the Director General of Revenue Intelligence and Investigation as the Convenor had been set up by the Finance Secretary. They have examined this issue and made their recommendations to the Finance Secretary."

1.17. Further, in paragraph 1.52 of the Report, the Committee had observed:

"According to the instructions issued by Government in May, 1956 any agreement with foreign suppliers should provide that the latter would disclose the name and address of the Indian agent, the services to be rendered by him and the remuneration payable to him. However, no uniform practice is followed by the Supply Missions in Washington and London and the Directorate General, Supplies and Disposals. While the standard conditions of contract of the India Supply Mission, Washington provide that a foreign supplier would intimate the remuneration payable to his Indian agent, it is, however, not required of him to intimate what services would be rendered by the agent. On the other hand, the conditions of contract of the India Supply Mission, London and the Directorate

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\*Not vetted Audit.

General, Supplies and Disposals for foreign purchases do not require the declaration of the agency commission payable to the Indian agents. The Committee have been informed by the Department of Supply that they have taken up a study of the contracts of these three agencies, in respect of general stores and other stores as well as fertilisers to see that no loopholes exist and to remove doubts and ambiguities. A specific clause for declaration of the Indian agents' commission is also proposed to be incorporated in the contracts. The Committee desire that this should be done expeditiously. There should also be an effective liaison and coordination between the Department of Supply, Reserve Bank of India, Central Board of Direct Taxes and the Enforcement Directorate so that prompt action can be taken as soon as such transactions come to notice."

1.18. The replies furnished in this regard by the Departments of Supply, Revenue & Insurance and Personnel & Administrative Reforms are reproduced below:

*Department of Supply:*

"The standard conditions of contract of ISM, Washington contain a clause which require the contractor to make a full written disclosure of the amounts of agency commission or any other remuneration payable to the Indian agents. A similar specific clause on agency commission has been included in the case of ISM, London also. In case of DGS&D also, the tender enquiries issued require the disclosure of agency commission, which is then included in the contract. However, the Department of Supply have taken up a study of the contracts of these three agencies in respect of general stores and other stores as well as fertilisers to see that no irregularities exist and to remove doubts and ambiguities.

As mentioned above, the Working Group formed will have an effective coordination. This Committee has the following points of reference:

- (1) examine the entire question of the agency arrange-

ments of the Indian Agents and suggest appropriate regulatory and control measures;

- (2) suggest measures to prevent the misuse of foreign exchange, so that no secret foreign exchange reserves are built up by such Agents; and
- (3) suggest steps to prevent the evasion of taxes and/or breach of foreign exchange regulations."

*Department of Revenue & Insurance*

"As already mentioned, a Working Group with Director General of Revenue Intelligence and Investigation as the convener has been set up to study, in depth this problem and its ramifications on the economy of the country with particular reference to the leakage of foreign exchange and evasion of taxes. Necessary action will be taken on receipt of the Working Group's report."

*Department of Personnel & Administrative Reforms*

"This matter had been examined and considered by the Working Group headed by the Director General of Revenue Intelligence & Investigation which was set up by the Finance Secretary."\*

1.19. The Committee note that, in pursuance of their recommendations contained in paragraphs 1.49 and 1.52 of the 160th Report (Fifth Lok Sabha), an inter-Ministerial Working Group has been set up by Government, with the Director General of Revenue Intelligence and Investigation as its Convener, to study 'in greater depth' the problem of Indian agents and its ramifications on the economy of the country, with particular reference to the leakage of foreign exchange and evasion of taxes and to examine the question of coordination between different Government agencies. The Committee have also been informed by the Department of Personnel & Administrative Reforms that the Working Group has made its recommendations to the Finance Secretary. The Committee would like to be apprised of the recommendations and the follow-up action, initiated by Government thereon.

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\*Not vetted in Audit.



**Fixation of responsibility for failure to safeguard Government's Financial interests (Paragraph 1.50 S. No. 6)**

1.20. In paragraph 1.50 of the Report, the Committee had recommended.

“From the foregoing paragraphs, it is evident that there are more unseen factors in the institution of Indian agents than what meets the eye. The receipt of undisclosed commission abroad by the Indian agents helps them to accumulate untaxed foreign exchange abroad. It is surprising that such evasions have been continuing under the very nose of Government out of Government payments. These are serious instances of failure to safeguard the Government's interests. That such a state of affairs has been allowed to continue unchecked for a number of years would indicate negligence and inefficiency. Responsibility for the failure to safeguard Government's financial interests should be fixed for appropriate action. The action taken thereon should be intimated to the Committee.”

1.21. In their reply dated the 1st November, 1975 the Department of Supply have stated:

“As mentioned earlier, it is difficult to obtain full and correct information about the Indian agents of foreign suppliers and the exact amount of commission paid to them by the foreign suppliers. Since the Indian agent's commission is an arrangement between the Principals and Indian agents, we cannot compel foreign principals to disclose the quantum of agency commission paid by them. Hence there is no evasion of any responsibility on the part of any Government Department. A list of past contracts has been sent to the Reserve Bank of India and the Central Board of Direct Taxes and the Enforcement Directorate for further investigation.”

1.22. The Committee are of the view that the contention of the Department of Supply that there has been no evasion of any responsibility on the part of any Government Department is not tenable. The Department of Supply had been aware all along of the non-disclosure of agency commission in a number of cases. Government's own instructions, issued as early as May 1956, regarding disclosure by foreign principals of information about their Indian agents have not been properly followed up. It should have been possible at least

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to take some steps to prevent abuses on the basis of the specific instances brought out in the Audit paragraph irrespective of the issue coming up before the Public Accounts Committee. Government cannot also merely plead helplessness in this regard. In view of the fact that Government have had to appoint an inter-Ministerial Working Group to examine the entire question, it is plain that adequate attention had not been paid earlier to this important issue. The Committee, therefore, reiterate their earlier recommendation and desire fixation of responsibility for the failure to safeguard Government's financial interests.

**Reopening of cases of payment of Indian Agents'  
Commission during the past 16 years (paragraph  
1.51—SL. No. 7)**

1.23. The recommendation contained in paragraph 1.51 of the Report is reproduced below:

“The Committee also desire that Government should examine the advisability of reopening and re-examining cases in which agency commission has been paid during the past 16 years to ensure that there have been no violations on the Foreign Exchange Regulations Act and that there has been no evasion of tax. Stringent action should be taken on those Indian agents who are found guilty of economic offences.”

1.24. In their reply dated the 1st November 1975, the Department of Supply have stated:

“It has not been possible to trace out the cases of the past 16 years. Efforts are being made to collect as many cases as possible. The lists are being sent to the Reserve Bank of India, Enforcement Directorate and the Central Board of Direct Taxes for further investigation.”

1.25. The replies furnished in this regard by the Ministry of finance (Department of Revenue & Insurance) and the Department of Personnel & Administrative Reforms, Cabinet Secretariat are reproduced below:

*Ministry of Finance (Department of Revenue  
and Insurance)*

“The names and addresses of the Indian agents of the foreign suppliers are given by the PAC in their report. From the

addresses given it appeared that most of the cases were in Delhi, and, therefore, it was proposed to centralise all the cases with one Income-tax Officer at Delhi for proper investigation. But, on further enquiries, it is learnt that only three cases are assessed in Delhi. Steps have already been taken by the Central Board of Direct Taxes to centralise these cases with one Income-tax Officer under the charge of Commissioner of Income-tax, Delhi—II and instructions to this effect have already been issued to Commissioner of Income-tax, Delhi—II. Likewise, three cases in the charge of Commissioner of Income-tax Hyderabad have been centralised with the Income-tax Officer Company Circle C. Ward, Hyderabad. The remaining cases relate to Bombay, West Bengal and Madras charge. Commissioners of Income-tax Bombay, Calcutta and Madras have accordingly been directed to take immediate action to centralise all such cases with one Income-tax Officer in their respective charges to facilitate proper investigation. The assessments in all these cases will be completed under the overall supervision of the DI (Investigation)."

*Department of Personnel and Administrative  
Reforms, Cabinet Secretariat*

"The Enforcement Directorate is concerned with the specific cases of contraventions of the provisions of Foreign Exchange Regulations Act. The regulatory functions under the Foreign Exchange Regulation Act are performed by the Reserve Bank of India under the overall direction and control of the Department of Economic Affairs. The foreign exchange earned and repatriated by an individual or concern is not required to be reported to the Enforcement Directorate. The Enforcement Directorate will take action as and when any specific cases of Foreign Exchange violations come to its notice or are referred to it either by the Reserve Bank of India or by any other Government Department."\*

**1.26. In view of the difficulties reported by the Department of Supply in tracing out cases of the past 16 years, though it should not be too complicated a task, the Committee do not insist upon the review covering the full span of 16 years. The Committee would, however, ask Government to re-examine all the cases pertaining to**

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\*Not vetted in Audit.

the period 1968 to 1974, when the purchase of fertilisers from abroad had increased manifold. Review of such cases should be completed expeditiously and the results intimated to the Committee.

1.27. The Committee are unhappy over the apparent delay in forwarding the lists of cases that have been traced out to the Reserve Bank of India, Enforcement Directorate and the Central Board of Direct Taxes for further investigation and desire that this should be done forthwith, in case it has not already been done.

**Non-disclosure of Agency Commission by Socotra International Private Limited (Paragraphs 1.53 & 1.54) (S. Nos. 9 & 10)**

1.28. In respect of the transaction relating to Socotra International Private Limited, New Delhi, commented upon by Audit, the Committee, in paragraphs 1.53 and 1.54, had observed:

"1.53. In respect of the transaction relating to Socotra International Private Ltd., New Delhi, pointed out by Audit, it is evident that this has been done only to conceal facts. From the letter of the Director General, India Supply Mission, Washington dated 30th November 1972, the Committee find that the Indian agent had also gone to the extent of pressing the principals not to disclose the commission payable. This is most serious. The explanation subsequently offered by the foreign supplier and the agent that only US dollar 0.30 represented the commission and the balance of US dollar 0.95 a retainer and a marketing consultancy fee is far from convincing. As has been rightly pointed out by the Director General, India Supply Mission, Washington, a 'retainer' is generally in the nature of a fixed monthly or annual payment unrelated to the actual quantity or volume of purchase in a given case. In fact, in the case of a number of agreements entered into by the India Supply Mission, London, and the Directorate General, Supplies and Disposals, the principals have paid a fixed annual service fee irrespective of whether they sell any fertiliser to the Government of India or not. The Committee are, therefore, not satisfied with the explanation of Socotra International Private Ltd. and are of the opinion that a *prima facie* case of malpractice has been established."

"1.54. The Committee have been informed by the Department of Supply that this case is already within the knowledge of the Reserve Bank of India and the Enforcement Directorate. The Committee cannot but express their anxiety with the slow progress of the case and desire that the investigations should be completed expeditiously and appropriate action taken. The outcome of the investigations and the action taken thereon should be reported to the Committee."

1.29. In their reply dated the 1st November, 1975 the Department of Supply have stated:

"The contract on M/s. Agrico Chemicals provides commission to the Indian agents M/s. Socotra International. The contract provides payment of \$ 1.25 per MT to Socotra out of which 30 cents/MT was towards their commission and @ 95 cents/MT towards their retainer. The payment @ 30 cents/MT has already made and confirmed by RBI. So far as the payment @ 95 cents/MT is concerned, it has not been released so far and the case is under examination in consultation with Law. Till a final opinion is taken, whether there had been a malpractice or not cannot be confirmed, India Supply Mission, Washington have received intimation under letter dated 13-6-1975 from the lawyers viz. Hall, Estil, Hardwick, Gable, Collingsworth & Nelson, of M/s. Agrico Chemical Company to the effect that 'although the Government of India has been credited by Agrico with this sum of \$ 43,343.49 for the purpose of paying that sum to Socotra, Agrico has decided that payment to Socotra should not be further delayed. Agrico has accordingly decided to pay Socotra \$ 40,800 pursuant to Agrico's original agreement to pay Socotra \$ 1,700 per month for a 24 month period. Socotra has agreed to accept this sum from Agrico as full payment for Socotra's monthly consulting fees and in return for the same. Socotra has agreed to assign to Agrico all Socotra's rights that have accrued to Socotra vis-a-vis the Indian Government by reason of the Indian Government's not paying Socotra the \$ 95 per ton which had been credited for that purpose by Agrico to the Indian Government and Socotra has consented to payment of such \$ 43,343.49 by the Government of India to Agrico."

Further, India Supply Mission, Washington has also received a copy of assignment agreement dated 19-5-1975 between M/s. Socotra International Private Limited, New Delhi and M/s. Agrico Chemical Co., Tulsa, USA to this effect.

The Department of Supply have informed the Reserve Bank of India Central Board of Direct Taxes and the Enforcement Directorate about this agreement reached between M/s. Socotra and M/s. Agrico."

1.30. The Department of Revenue & Insurance have, in their Action Taken Note dated the 13th August, 1975 furnished to the Committee in this connection, stated:

"This is one of the three cases centralised with the ITO Company Circle I, Delhi under the charge of Commissioner of Income-tax, Delhi-II. This is an Indian Company incorporated in April 1956. It has been ascertained that M/s. Socotra International Pvt. Ltd. derive income mostly from Commission agency and a substantial portion of commission income is in respect of contracts entered into by the Department of Supply. The assessments upto and including 1973-74 have been completed. The accounts of this company will be subjected to thorough scrutiny while completing the pending assessments under the overall supervision of the D.I. (Investigation) and the assessments of the earlier years will also be reopened, if found necessary."

1.31. The reply\* dated 25th August, 1975 of the Department of Personnel & Administrative Reforms to the recommendation contained in paragraph 1.54 is as follows:

"The case is under investigation by the Enforcement Directorate. All attempts are being made to finalise the investigation as early as possible."

1.32. The Committee find the reply now furnished by the Department of Supply rather intriguing. While the Department of Supply has decided not to release the payment of US Dollar 0.95 per MT, pending examination of the case in consultation with the Ministry of Law, the foreign supplier, Agrico Chemical Company, appears to have entered into an agreement with Socotra International Private Ltd. to make a payment of US Dollars 40,800 on the ground that

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\*Not Vetted in Audit.

'payment to Socotra should not be further delayed'. In return for this payment, Socotra has agreed to assign to Agrico all the rights that have accrued to the Indian agent vis-a-vis the Indian Government and consented to the payment of US Dollars 43,343.49 by the Government of India to the foreign supplier. It is not very clear to the Committee from the Department's reply whether the legal implications of Socotra entering into such an agreement which in turn is binding on the Government of India have been fully examined and the validity of the agreement ascertained, especially in view of the fact that the payment in question is under dispute. Actually, this appears to be a perverse ruse by the Indian agent to obtain payment of the disputed amount in a round about manner. Besides, under this agreement, since the Government of India would be liable to pay an amount of US Dollars 43,343.49 to the foreign supplier as against the payment of US Dollars 40,800 by the foreign supplier to Socotra, there would in any case be a net outflow of foreign exchange, despite the fact that the agent's commission is payable only in Rupees.

1.33. Another peculiar point arising out of the Department's reply is that while the alleged retainer and marketing consultancy fee payable to Socotra by the foreign supplier had been indicated initially on a 'per tonne' basis at US Dollar 0.95 per metric tonne, in the agreement now entered into between the foreign supplier and the Indian agent, the amount payable to Socotra has been worked out on a fixed monthly basis. Obviously, there is more to this devious transaction than what meets the eye.

1.34. The Committee, therefore, feel that by timely and correct action, Government could have avoided the embarrassing situation that has emerged and are thoroughly dissatisfied with the manner in which the entire case has been handled. A proper examination of the legal implications of the agreement now entered into between Socotra and Agrico is immediately called for and Government must take specific steps to foil what seems to be a surreptitious attempt by the foreign supplier and the Indian agent to carry through a transaction which, prima facie appears to be unjustified. The final decision on the payment of US Dollar 0.95 per metric tonne to Socotra should also be taken after careful and expeditious consideration of the latest developments that have taken place so as to ensure that Government does not fall a prey to the devious devices employed by the trade.

1.35. The Committee are also concerned over the unconscionable delay in investigation of this case by the Enforcement Directorate

and must reiterate their earlier recommendation contained in paragraph 1.54 of the 160th Report that the investigations should be completed expeditiously.

**Interlocking of capital between foreign suppliers and Indian Agents (Paragraph 1.57—S. No. 13).**

1.36. Commenting on the establishment by some foreign suppliers of their own branches or subsidiaries in India to function as their Indian agents, the Committee, in paragraph 1.57, had observed:

“Another aspect which has come to the notice of the Committee is that foreign suppliers organise what appears to be either their own branches or subsidiaries in India to function as their agents in India. For instance, the Committee find that M/s. Interore, New Delhi are Indian agents for M/s. Interore, New York and the agency commission is decided in individual contracts. Similarly, M/s. Compagne Indo-Francaise de Commerce, New Delhi are the Indian agents for M/s. Comptoir Francies De L Azote (CFD), Paris and M/s. Indische-Osterreichische Handel-Sgsellschaft Pvt. Ltd., New Delhi are the Indian agents for M/s. Chemie Linz., AG, Austria. In the former case, the principals are said to pay a fixed service fee of French Francs 20,000 a year to the Indian agents and in the latter case, a fixed service fee of 100,000 in Austrian currency per year. Yet another instance is the payment of Italian Liras 2,250,000 per year as service fee by M/s. Montedison, spa, Italy to their Indian agents M/s. Societa Commerciale Indo-Italiana Pvt. Ltd., New Delhi. In all these cases, the service fee is payable irrespective of whether any fertiliser is sold to the Government of India or not. No doubt, the Department of Supply would say that the service fee in all these cases has been paid only in Indian Rupees. The very names of these firms operating in India would, however, suggest that these are only foreign firms in the garb of ‘Indian’ agents. In all probability there is an interlocking of capital between some of these foreign suppliers and their so called Indian agents. Interore, New Delhi is also, perhaps, only a subsidiary of Interore, New York. If foreigners hold a substantial interest in these agencies, the repatriation of the profits of these agencies, after deduction of tax due in India, is permissible under the exist-



ing law. The Committee, therefore, desire that Government should investigate in detail such interlocking of capital and whether any such service fee, retainer or agency commission, received in rupees by such companies has been repatriated in foreign exchange as profits of the companies and, if so, what has been the net outflow of foreign exchange in these cases. The outcome of these investigations should be reported to the Committee."

1.37. In reply, the Department of Supply have stated in one laconic sentence:

"The Department of Banking is examining the matter."

1.38. The Committee stress that delay in such cases being undesirable, the Department of Banking should complete its examination of the interlocking of capital between different foreign suppliers of fertilisers and their own branches or subsidiaries in India which function as their Indian agents and intimate the action taken thereon to the Committee early.

**Non-levy of penalty for supply of substandard urea by KCFC, Kuwait (Paragraph 158—Sl. No. 14).**

1.39. Dealing with the question of levy of penalty for supply of sub-standard fertilisers, the Committee, in paragraph 1.58, had, *inter alia*, observed:

"The Committee would also like to know the reasons for the non-levy of any penalty in four cases of supply of sub-standard urea by KCFC, Kuwait in November 1973."

1.40. The reply furnished in this regard by the Department of Supply is reproduced below:

"With regard to the 4 shipments with sub-standard fertilisers from Kuwait, the position is as given below:

The case has been examined. The ships involved are: 'FARIDA', 'MALDIVE BUILDER', 'MALDIVE EXPRESS' and 'ACTIVITY'. The prill size was slightly more than 10 per cent given in the specifications. The local agents approached the Ministry of Supply for acceptance with the above higher percentage of prill size. The Department of Supply referred the matter to Agriculture who confirmed rela-

xation of specifications, which meant lowering of the specifications in the contract. Agriculture Department normally indicate their opinion whether penalty should be imposed, but leave it to the Department of Supply to fix the actual quantum of penalty. In this case, however, Agriculture Department stated that they were prepared to relax the specifications and did not say that the relaxation of specifications involved a reduction in utility of the fertiliser, or that a penalty should be imposed. Agriculture Department also pointed out that the quantities involved were very small. Hence this Department did not levy any penalty."

1.41. Since Urea of relaxed specifications has been accepted by the Department of Supply, in consultation with the Department of Agriculture, the Committee would like to know whether any attempt had been made to negotiate a reduction in price for the supplies not conforming to the prescribed specifications and, if not, the reasons therefor.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation

Though the Department of Supply have maintained that the commission actually declared is paid to the agent only in rupee and, therefore, no foreign exchange angle is involved, the Committee are concerned to note that the agents' commission had not been disclosed initially in two cases, test checked by Audit, as required under the standard conditions of contract. In one case (Socotra International Private Ltd., New Delhi), the Indian agent had repeatedly declined to disclose the commission and had also gone to the extent of pressing upon the principal (Agrico Chemical Company, Oklahoma, USA) not do so. A disclosure of the commission payable had been made by the agent only after persuasion. Further enquiries with the supplier, however, revealed a different position. While the Indian agent had disclosed the commission as US Dollar 0.30 per metric tonne, the foreign supplier had subsequently intimated the commission as US Dollars 1.25 per metric tonne. It is also surprising that in respect of two subsequent contracts entered into by the India Supply Mission, Washington, with a fully-owned subsidiary company of the foreign supplier who had executed the earlier contract, the agency commission payable to Socotra International Private Ltd., had been provided as US Dollar 0.50 per metric tonne as against the rate of US Dollar 0.30 per metric tonne provided in the contract mentioned in the Audit paragraph and the rate of US Dollars 1.25 per metric tonne intimated by the foreign supplier in that case.

[S. No. 2 (Para 1.46) of Appendix VII to 160th Report  
(5th Lok Sabha)]

#### Action Taken

Noted.

[Department of Supply O.M. No. P. III—22(4)/75  
dated 1-11-1975]

### Recommendation

It is most likely that many of the Indian agents arrange to receive their commission directly from the foreign suppliers abroad in foreign exchange which not repatriated and is likely to be utilised for various purposes. The Secretary, Department of Supply, has also stated that if the entire amount received as commission by the Indian agents was not revealed, Government would not know about it and that he was not aware whether information on receipt of amounts not specified in the contract was made available to the Government. It has also been stated by the representative of the Reserve Bank of India that unless the Bank was informed of the cases in which commission was receivable, the Bank cannot exercise any check on the repatriation of the amounts, if any, received abroad. He has also stated that no procedure exists for checking invisible transactions. The Committee are unable to accept the contention of the Department of Supply that no foreign exchange angle is involved. The Committee desire that this aspect should be examined thoroughly by the Ministry of Finance, Central Board of Direct Taxes, in consultation with the Reserve Bank of India and the Enforcement Directorate, both from the foreign exchange and from the taxation angles and the measures taken to plug the loop-holes.

[S. No. 5 (para 1.49) of Appendix VII to 160 Report  
(5th Lok Sabha)]

### Action Taken

#### *Department of Supply*

As this concerns several Departments, it has been decided to form a working group consisting of representatives of the Department of Supply, Department of Economic Affairs, Ministry of Commerce, Ministry of Defence, Railway Board, P. & T. Board and the Central Board of Direct Taxes, Director of Enforcement, Reserve Bank of India. The Group will examine the entire question of agency arrangements of the Indian Agents and suggest appropriate regulatory and control measures. Government will take suitable action in the light of the Group's recommendations.

[Department of Supply O.M. No. P. III—22(4)/75  
dated 1-11-1975]

#### *Department of Revenue and Insurance*

This is a general recommendation regarding suspected evasion/avoidance of taxes of resident assesseees having dealings with foreign

concerns. A working Group has been set up with the Director General of Revenue Intelligence and Investigation as the convener to study in greater depth this problem and its ramifications on the economy of the country with particular reference to the leakage of foreign exchange and evasion of taxes. The other members of the Group are representatives of the following Departments.

1. Reserve Bank of India
2. Central Board of Direct Taxes
3. Department of Economic Affairs
4. Department of Supply
5. Railway Board
6. Post & Telegraph Board
7. Ministry of Commerce
8. Ministry of Defence
9. Directorate of Enforcement

The terms of reference of this Working Group are as follows:

- (a) To examine the entire question of the agency arrangement of the Indian Agents and to suggest appropriate rectificatory and control measures;
- (b) To suggest measures to prevent the misuse of foreign exchange so that no foreign exchange reserves are built up by such agents; and
- (c) To suggest steps to prevent evasion of taxes and/or breach of foreign exchange Regulations.

Appropriate action will be taken on receipt of the report of the Working Group.

[Ministry of Finance (Department of Revenue & Insurance)  
O.M. No. 241/1/75-A&P AC-I dated 13-8-75]

*Cabinet Secretariat, Department of Personnel and Administrative Reforms*

The question of co-ordination had been taken by the Ministry of Finance and a working group with the Director General of Revenue Intelligence and Investigation as the Convener, had been set up by the Finance Secretary. They have examined this issue and made their recommendations to the Finance Secretary.

[Department of Personnel and Administrative Reforms Cabinet Secretariat D.O. No. 42/3/75-AVD IV dated 25-8-1975\*]

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\*Not vetted in Audit.

### **Recommendation**

According to the instructions issued by Government in May, 1956, any agreement with foreign suppliers should provide that the latter would disclose the name and address of the Indian agent, the services to be rendered by him and the remuneration payable to him. However, no uniform practice is followed by the Supply Missions in Washington and London and the Directorate General, Supplies and Disposals. While the standard conditions of contract of the India Supply Mission, Washington provide that a foreign supplier would intimate the remuneration payable to his Indian agent, it is, however, not required of him to intimate what services would be rendered by the agent. On the other hand the conditions of contract of the India Supply Mission, London and the Directorate General Supplies and Disposals for foreign purchases do not require the declaration of the agency commission payable to the Indian agents. The Committee have been informed by the Department of Supply that they have taken up a study of the contracts of these three agencies, in respect of general stores and other stores as well as fertilisers to see that no loop-holes exist and to remove doubts and ambiguities. A specific clause for the declaration of the Indian agents' commission is also proposed to be incorporated in the contracts. The Committee desire that this should be done expeditiously. There should also be an effective liaison and coordination between the Department of Supply, Reserve Bank of India, Central Board of Direct Taxes and the Enforcement Directorate so that prompt action can be taken as soon as such transactions come to notice.

[S. No. 8 (Para 1.52) of Appendix VII to 160th Report (5th Lok Sabha)]

### **Action Taken**

#### *Department of Supply*

The standard conditions of contract of ISM, Washington contain a clause which require the contractor to make a full written disclosure of the amounts of agency commission or any other remuneration payable to the Indian Agents. A similar specific clause on agency commission has been included in the case of ISM, London also. In case of DGS&D also the tender enquiries issued require the disclosure of agency commission, which is then included in the contract. However, the Department of Supply have taken up a study of the contracts of these three agencies in respect of general stores and other stores as well as fertilisers to see that no irregularities exist and to remove doubts and ambiguities.

As mentioned above, the Working Group formed will have an effective coordination. This committee has the following points of references:—

- (1) examine the entire question of the agency arrangements of the Indian Agents and suggest appropriate regulatory and control measures;
- (2) suggest measures to prevent the misuse of foreign exchange, so that no secret foreign exchange reserves are built up by such Agents; and
- (3) suggest steps to prevent the evasion of taxes and/or breach of foreign exchange regulations.

[Department of Supply O.M. No. P. III—22(4)/75  
dated 1-11-1975]

*Department of Revenue and Insurance*

As already mentioned, a Working Group with Director General of Revenue Intelligence and Investigation as the convenor has been set up to study, in depth, this problem and its ramifications on the economy of the country with particular reference to the leakage of foreign exchange and evasion of taxes. Necessary action will be taken on receipt of the Working Group's report.

[Ministry of Finance (Department of Revenue & Insurance)  
O.M. No. 241/1/75-A&P AC-I dated 13-8-75]

*Cabinet Secretariat, Department of Personnel and Administrative Reforms*

This matter had been examined and considered by this working group headed by the Director General of Revenue Intelligence & Investigation which was set up by the Finance Secretary.

[Department of Personnel and Administrative Reforms Cabinet Secretariat D.O. No. 42/3/75-AVD, IV, dated 28-8-1975\*].

**Recommendation**

The total agency commission payable to the firm in respect of thirteen contracts (excluding two contracts for which the commission had not been indicated) worked out to the Rupee equivalent of US Dollars 56,687.50 plus Canadian dollars 23,875, at the corresponding prevailing rates of exchange. The Committee would like to know whether all the amounts received by the firm as commission had

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\*Not vetted in Audit.

been duly declared in the Returns of Income and assessed to tax. In case the firm has also been guilty of evasion of tax, the Committee require that appropriate proceedings should be initiated forthwith and the maximum punishment provided under the law meted out.

[S. No. 12 (Para 1.56) of Appendix VII to 160th Report  
(5th Lok Sabha)]

### **Action Taken**

#### *Department of Supply*

A list of contracts involved has been indicated in Appendix II. The Central Board of Direct Taxes have initiated action, *vide* D.O. No. 241/1/75-A&P CI, dated 16th May, 1975.

Further Report will be submitted later.

[Department of Supply O.M. No. P. III—22(4)/75  
dated 1-11-1975]

#### *Department of Revenue and Insurance*

In this connection, the reply to para 1.51 given above may be referred to. This is one of the three cases centralised with the ITO Company Circle I, Delhi under the charge of Commissioner of Income-tax, Delhi-II. This is an Indian Company incorporated in April, 1966. It has been ascertained that M/s. Socotra International (Pvt.) Ltd., derive income mostly from Commission agency and a substantial portion of commission income is in respect of contracts entered into by the Department of Supply. The assessments upto and including 1973-74 have been completed. The accounts of this Company will be subjected to thorough scrutiny while completing the pending assessments under the overall supervision of the D.I. (Investigation), and the assessments of the earlier years will also be reopened, if found necessary.

[Ministry of Finance (Department of Revenue & Insurance)  
O.M. No. 241/1/75-A&P AC-I dated 13-8-75]

### **Recommendation**

From the details of instances of supply of sub-standard fertilisers furnished by the Department of Supply, the Committee find that during the period 1971—73, there were as many as twenty three instances of sub-standard supplies. Of these, penalties on the suppliers have been imposed merely in seven cases. While a decision not to



impose any penalty is stated to have been taken in four cases, the remaining twelve cases are stated to be under consideration for a considerable length of time either in the Department of Supply or in the Department of Agriculture. One of these cases related to contract placed in March 1972, two cases of contracts executed in April, 1972, seven cases to a contract placed in January, 1973, one case to April, 1973 and one case to September, 1973. The Committee require that these cases should be finalised without any further loss of time and the details of the action taken intimated to them at the earliest. The Committee would also like to know the reasons for the non-levy of any penalty in four cases of supply of sub-standard urea by KCFC, Kuwait in November, 1973.

[S. No. 14 (Para 1.58) of Appendix VII to 160th Report  
(5th Lok Sabha)]

#### Action taken

With regard to the 4 shipments with sub-standard fertiliser from Kuwait, the position is as given below:—

The case has been examined. The ships involved are 'FARIDA', 'MALDIVE BUILDER', 'MALDIVE EXPRESS' and 'ACTIVITY'. The prill size was slightly more than 10 per cent given in the specifications. The local agents approached the Ministry of Supply for acceptance with the above higher percentage of prill size. The Department of Supply referred the matter to Agriculture who confirmed relaxation of specifications, which meant lowering of the specifications in the contract. Agriculture Department normally indicate their opinion whether penalty should be imposed, but leave it to the Department of Supply to fix the actual quantum of penalty. In this case, however, Agriculture Department stated that they were prepared to relax the specifications and did not say that the relaxation of specifications involved a reduction in utility of the fertiliser, or that a penalty should be imposed. Agriculture Department also pointed out that the quantities involved were very small. Hence this Department did not levy any penalty.

Out of 12 cases of substandard supplies decision has been taken in 10 cases as mentioned below and two cases are under vigorous examination of the Ministry of Agriculture. The position of ten cases is as below:—

- (1) In respect of seven ships viz., 'Jag Asha', 'Vishwa Shakti', 'Trojan', 'Litija', 'Jag Vijay', 'Vahant' and 'Jag Anand' which carried Muriate of Potash with higher NaCl content

against contract No. FP. 55(CDA)/73/MOP/799 dated 16-1-73 on M/s. Canpotex the fertiliser Purchase Committee in its meeting held on 30-7-75 decided that the recovery may be made at the rate of fifty cents per tonne as recommended by Agriculture Department but at the same time India Supply Mission, Washington may try to explain the reasons for recovery to the suppliers while Deptt. of Agriculture should also take this step with the Canadian Embassy in India as most of the purchases of MOP from Canada were under the Canadian Credit.

- (2) In respect of ship 'Granton' which carried DAP against contract No. FP. 55/72/DAP/514 dated 30-3-1972 recovery to the extent of \$7,113.97 has been effected by India Supply Mission, Washington in November, 1974.
  - (3) In respect of vessel 'Khian Island' which carried ANP against contract No. M. 16608/470/73/Misc. dated 11th September, 1972 Fertiliser Purchase Committee in its meeting held on 30th July, 1975 decided not to levy any penalty in view of the small quantity with deviation involved and also sources of supply being limited.
  - (4) Regarding vessel 'Khian Sun' which carried ANP against contract No. M. 16535/698/72/Misc. 3, dated 12th April, 1973 a decision was taken on 17th October, 1974 to recover DM 39,176.17 in respect of material with deviation carried in this ship as well as ship 'Jalagiriya'.
- [Department of Supply O. M. No. P III—22 (4)/75 dated 1-11-1975]

#### Recommendation

A general question that arises out of the examination of the facts brought out in the Audit paragraph and those subsequently brought to the notice of the Committee is whether there is any need for agents in such transactions. The Committee can understand the need for such agents in the case of imports of plant, machinery and other equipment where after-sales services are involved. However in the case of imports of commodities such as fertilisers or foodgrains, where there is no question of maintenance, the role of the Indian agent is of no utility.

During the period from 1970 to 1974 (upto September) the total quantum of commission paid to the Indian agents for purchase of fertilisers by the India Supply Mission, Washington, alone amount-

ed to the rupee equivalent of US dollar 3.72 lakhs plus Canadian dollars 0.94 lakh, in 118 cases. It has been stated by the Secretary, Department of Supply, during evidence that not every Indian agent was working to the best interest of Government and that lot of information was being supplied by the Indian agents to the foreign supplier which often placed Government at a disadvantage at the negotiating table. The Committee are, therefore of the view that Government should deal directly with the foreign suppliers. This should not be very difficult since Government already have their own organisations in Washington and London. The Committee find no reasons whatsoever as to why the import of fertilisers should not be made only through the Minerals and metals Trading Corporation.

[S. Nos. 16 and 17. (Paras 1.60 and 1.61) of Appendix VII to 160th Report (5th Lok Sabha)]

#### Action taken

Purchase of fertilisers from East European countries is already done by the MMTC. The Government of India have decided that from 1-8-75 the work relating to procurement of fertilisers from other regions also will be handled by MMTC while the Department of Supply will process only the existing contracts for completion and that from 1-12-75 the complete work of fertilisers could be done by MMTC.

[Department of Supply O.M. No. P III-22(4)/75 dated 1-11-1975].

## **CHAPTER III**

### **RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT**

#### **Recommendation**

The Committee also desire that Government should examine the advisability of reopening and re-examining cases in which agency commission has been paid during the past 16 years to ensure that there have been no violations of the Foreign Exchange Regulations Act and that there has been no evasion of tax. Stringent action should be taken on those Indian agents who are found guilty of economic offences.

[S. No. 7 (Para 1.51) of Appendix VII to 160th Report (5th Lok Sabha)]

#### **Action Taken**

##### **Department of Supply**

It has not been possible to trace out the cases of the past 16 years. Efforts are being made to collect as many cases as possible. The Lists are being sent to the Reserve Bank of India, Enforcement Directorate and the Central Board of Direct Taxes for further investigation.

[Department of Supply O.M. No. PIII—22-(4)/75 dated 1-11-75]

##### **Department of Revenue & Insurance**

The names and addresses of the Indian Agents of the Foreign suppliers are given by the P.A.C. in their Report. From the addresses given it appeared that most of the cases were in Delhi and, therefore, it was proposed to centralise all the cases with one Income Tax Officer at Delhi for proper investigation. But, on further enquiries, it is learnt that only three cases are assessed in Delhi. Steps have already been taken by the Central Board of Direct Taxes to centralise these cases with one Income tax Officer under the charge of Commissioner of Income-tax, Delhi-II

and instructions to this effect have already been issued to Commissioner of Income-tax, Delhi-II. Likewise, three cases in the charge of Commissioner of Income-tax, Hyderabad have been centralised with the Income-tax Officer Company Circle C Ward, Hyderabad. The remaining cases relate to Bombay, West Bengal and Madras charges. Commissioners of Income-tax, Bombay, Calcutta and Madras have accordingly been directed to take immediate action to centralise all such cases with one Income-tax Officer in their respective charges to facilitate proper investigation. The assessments in all these cases will be completed under the overall supervision of the DI. (Investigation).

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 241/1/75-A and PAC-I dated 13-8-1975]

**Cabinet Secretariat, Department of Personnel and  
Administrative Reforms**

\*The Enforcement Directorate is concerned with the specific cases of contraventions of the provisions of Foreign Exchange Regulation Act. The regulatory functions under the Foreign Exchange Regulation Act are performed by the Reserve Bank of India under the overall direction and control of the Department of Economic Affairs. The foreign exchange earned and repatriated by an individual or concern is not required to be reported to the Enforcement Directorate. The Enforcement Directorate will take action as and when any specific cases of Foreign Exchange violations come to its notice or are referred to it either by the Reserve Bank of India or by any other Government department.

[Department of Personnel & Administrative Reforms—Cabinet Secretariat D.O. No. 42/3/75-AVD.IV dated 25-8-1975\*]

**Recommendation**

The Committee also find from the information furnished by the Department of Supply that besides the contract mentioned in the Audit paragraph and two other contracts subsequently brought to their notice during evidence, M/s. Socotra International Private Ltd. had also functioned as the Indian agents in respect of twelve other contracts for the supply of fertilisers entered into by the India Supply Mission Washington during 1970—74 (upto September, 1974). And again the agency commission payable had not been indicated in two of these contracts. The Committee

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\*Not vetted in Audit.

desire that all these transactions should be investigated thoroughly. The Committee would await a further report in this regard.

[S. No. 11 (Para 1.55) of Appendix VII to 160th Report (5th Lok Sabha)]

### **Action Taken**

#### *Department of Supply*

Both the contracts referred to above involve the Indian Agents M/s. Socotra International. One contract is for DAP with Principals M/s. Agrico, USA and other is with Principals M/s. Canpotex for MOP. It has been ascertained from ISM, Washington as to why the agency commission was not indicated in the contract. ISM, Washington has confirmed that against both these contracts, the Indian Agents are entitled to receive only the market consultancy fee and no agency commission is payable to them. Hence no agency commission could be indicated in these contracts.

[Department of Supply O.M. No. P. III-22(4)/75  
dated 1-11-1975]

#### *Department of Revenue and Insurance*

In this connection, the reply to para 1.51 may be referred to. This is one of the three cases centralised with the ITO Company Circle I, Delhi under the charge of Commissioner of Income-tax, Delhi-II. This is an Indian Company incorporated in April, 1966. It has been ascertained that M/s. Socotra International (Pvt.) Ltd., derive income mostly from Commission agency and a substantial portion of commission income is in respect of contracts entered into by the Department of Supply. The assessments upto and including 1973-74 have been completed. The accounts of this Company will be subjected to thorough scrutiny while completing the pending assessments under the overall supervision of the D.I. (Investigation), and the assessments of the earlier years will also be reopened, if found necessary.

[Ministry of Finance (Department of Revenue & Insurance)—O.M.  
No. 241/1/75—A&PAC-I dated 13-8-1975]

#### **Cabinet Secretariat, Department of Personnel & Administrative Reforms**

\*The Case is under investigation by the Enforcement Directorate. All attempts are being made to finalise the investigation as early as possible.

[Department of Personnel & Administrative Reforms—Cabinet Secretariat D.O. No. 42/3/75-AVD.IV dated 25-8-1975]

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\*Not vetted in Audit.

**Recommendation**

In respect of supplies of sub-standard fertilisers, the Committee are also surprised to find that no action has been taken against the Indian agents in these cases. The Committee would like to know the contractual obligations of the Indian agents in respect of supplies of defective or sub-standard fertilisers. In case they are also liable under the contract, the Committee would like to be informed of the reasons for not taking any action against the Indian agents.

[S. No. 15 (Para 1.59) of Appendix VII to 160th Report (5th Lok Sabha)]

**Action Taken**

Our contract is with the Supplier and not with the Indian Agent. The Indian agent has no legal liability, and no action can be taken against him.

[Department of Supply O.M. No. PIII—22-(4)/75  
dated 1-11-1975]

## CHAPTER IV

### RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

#### Recommendation

The Committee find that widely divergent rates of commission are being paid to Indian agents by foreign suppliers in respect of different purchases of fertilisers by the India Supply Mission, Washington. A test check by Audit of 44 agreements executed by the Mission, in 1971-72 and 1972-73, revealed that the Indian Agents' commission varied between 0.03 per cent and 1.41 per cent of the f.o.b. value in 43 cases in which the commission had been intimated by the Indian agents on behalf of their principals. No after-sales service is involved in the case of fertiliser imports and the commodity is also taken over by the Fertilizer Corporation of India as soon as the vessels touch Indian shores. The Secretary, Department of Supply also stated during evidence tendered before the Committee that the Indian agents are of no help and the little service rendered by them in making enquiries about the supply is also of no significance at all. Under these circumstances, the Committee are indeed surprised to learn that Government have not made any attempt to ascertain the rationale for these rates. It would appear that the encouragement given by the Government to Indian agents is tantamount to granting patronage to private parties.

[S. No. 1 (Para 1.45) of Appendix VII to 160th Report (5th Lok Sabha)]

#### Action Taken

The Supply Department has not, in fact, given any encouragement to Indian Agents of fertiliser suppliers. As was brought out in the evidence given before the PAC, the Supply Department recognises that no after-sales service is required for fertilisers, and that Indian Agents have no role to play *vis-a-vis* the purchaser (Supply Department). On the other hand, the Agent may be performing duties helpful to the foreign Principal (Supplier)



both before and after actual sales. The Principal presumably fixes the remuneration to the Agent on the basis of such assistance rendered by the Agent to the Principal. The Supply Department has no legal power to compel the foreign supplier not to employ an Indian Agent, or not to remunerate him. However, the Supply Department has tried to ensure that whatever remuneration is paid is declared by the supplier, and further that the actual payment to the Agent is not made in foreign currency. The Supply Department has no means, however, of checking any wilful evasion by the Principal or the Agent in this matter. However, in recent years the supply Department has tried to eliminate Indian Agents altogether by dealing direct, as far as possible, with the various foreign suppliers.

[Department of Supply O.M. No. PIII—22-(4)/75  
dated 1-11-1975]

#### **Recommendation**

In the second case pointed out by Audit, the initial agreement had been executed without indicating the commission payable to the Indian agent (Voltas Ltd., New Delhi). The agreement was subsequently amended providing agency commission at US dollar 0.75 per metric tonne, which worked out to 1.41 per cent of the C&F value. Here also, the foreign suppliers had not stated anything regarding agency commission payable, despite the clear provision in this regard in the standard conditions of contract.

[S. No. 3 (Para 1.47) of Appendix VII to 160th Report (5th Lok Sabha)]

#### **Action Taken**

Noted.

[Department of Supply O.M. No. PIII—22-(4)/75  
dated 1-11-1975]

#### **Recommendation**

From the information relating to the contracts for the purchase of fertilisers executed by the India Supply Mission, Washington during 1970-71 (upto September, 1974) furnished by the Department of Supply, the Committee observe that the commission payable to the Indian agents had not been indicated in two contracts, executed in 1971, in two contracts in 1972, in one case in 1973 and in one case in 1974 (Socotra International Private Ltd., New Delhi

were the Indian agents in the last two cases). The Committee are also not aware whether in respect of other contracts executed by the Mission, the commission had invariably been disclosed of the outself itself or only upon enquiries by the Mission. This non-divulgence of the agency commission payable leads the Committee to believe that there is a tendency on the part of the foreign suppliers and the Indian agents to avoid disclosing of the commission for avoiding payment of tax with the object of accumulating foreign exchange abroad by violating the Foreign Exchange Regulations Act.

[S. No. 4 (Para 1.48) of Appendix VII to 160th Report (5th Lok Sabha)]

### Action Taken

#### *Department of Supply*

Noted.

[Department of Supply O.M. No. PIII—22-(4)/75  
dated 1-11-1975]

#### *Department of Revenue and Insurance*

This is a general recommendation regarding suspected evasion/avoidance of taxes of resident assesseees having dealings with foreign concerns. A Working Group has been set up with the Director General of Revenue Intelligence and Investigation as the convenor to study in greater depth this problem and its ramifications on the economy of the country with particular reference to the leakage of foreign exchange and evasion of taxes. The other members of the Group are representatives of the following Departments:—

1. Reserve Bank of India
2. Central Board of Direct Taxes
3. Department of Economic Affairs
4. Department of Supply
5. Railway Board
6. Post & Telegraph Board
7. Ministry of Commerce
8. Ministry of Defence
9. Directorate of Enforcement.

The terms of reference of this Working Group are as follows:

- (a) To examine the entire question of the agency arrangement of the Indian Agents and to suggest appropriate rectificatory and control measures;
- (b) To suggest measures to prevent the misuse of foreign exchange so that no foreign exchange reserves are built up by such agents; and
- (c) To suggest steps to prevent evasion of taxes and/or breach of foreign exchange Regulations.

Appropriate action will be taken on receipt of the report of the Working Group.

[Ministry of Finance (Department of Revenue & Insurance)  
O.M. No. 241/1/75—A&PAC-I dated 13-8-1975]

### Recommendation

From the foregoing paragraphs, it is evident that there are more unseen factors in the institution of Indian agents than what meets the eye. The receipt of undisclosed commission abroad by the Indian agents helps them to accumulate untaxed foreign exchange abroad. It is surprising that such evasions have been continuing under the very nose of Government out of Government payments. These are serious instances of failure to safeguard the Government's interests. That such a state of affairs has been allowed to continue unchecked for a number of years would indicate negligence and in-efficiency. Responsibility for the failure to safeguard Government's financial interests should be fixed for appropriate action. The action taken thereon should be intimated to the Committee.

[S. No. 6 (Para 1.50) of Appendix VII to 160th Report (5th Lok Sabha)]

### Action Taken

As mentioned earlier, it is difficult to obtain full and correct information about the Indian Agents of foreign suppliers and the exact amount of commission paid to them by the foreign suppliers. Since the Indian Agents' commission is an arrangement between the Principals and the Indian Agents, we cannot compel the foreign principals to disclose the quantum of agency commission paid by them. Hence there is no evasion of any responsibility on

the part of any Government Department. A list of past contracts has been sent to the Reserve Bank of India and the Central Board of Direct Taxes and the Enforcement Directorate for further investigation.

[Department of Supply O.M. No. PIII-22(4)/75  
dated 1-11-1975]

### **Recommendation**

In respect of the transaction relating to Socotra International Private Ltd., New Delhi, pointed out by Audit, it is evident that this has been done only to conceal facts. From the letter of the Director General, India Supply Mission, Washington dated 30th November, 1972, the Committee find that the Indian agent had also gone to the extent of pressing the principals not to disclose the commission payable. This is most serious. The explanation subsequently offered by the foreign supplier and the agent that only US dollar 0.30 represented the commission and the balance of US dollar 0.95 a retainer and a marketing consultancy fee is far from convincing. As has been rightly pointed out by the Director General, India Supply Mission, Washington, a 'retainer' is generally in the nature of a fixed monthly or annual payment unrelated to the actual quantity or volume of purchase in a given case. In fact, in the case of a number of agreements entered into by the India Supply Mission, London and the Directorate General, Supplies and Disposals, the principals have paid a fixed annual service fee irrespective of whether they sell any fertiliser to the Government of India or not. The Committee are, therefore, not satisfied with the explanation of Socotra International Private Ltd. and are of the opinion that a *prima facie* case of malpractice has been established.

The Committee have been informed by the Department of Supply that this case is already within the knowledge of the Reserve Bank of India and the Enforcement Directorate. The Committee cannot but express their anxiety with the slow progress of the case and desire that the investigations should be completed expeditiously and appropriate action taken. The outcome of the investigation and the action taken thereon should be reported to the Committee.

[S. Nos. 9 and 10 (Para 1.53 and 1.54) of Appendix VII to 160th Report (5th Lok Sabha)]

**Action Taken****Department of Supply**

The contract on M/s. Agrico Chemicals provides commission to the Indian Agents M/s. Socotra International. The Contract provides payment of \$ 1.25 per MT to Socotra out of which 30 cents/MT was towards their commission and @ 95 Cents/MT towards their retainer. The payment @ 30 cents/MT has already been made and confirmed by RBI. So far as the payment @ 95 cents/MT is concerned, it has not been released so far and the case is under examination in consultation with Law. Till a final opinion is taken, whether there had been a malpractice or not cannot be confirmed.

India Supply Mission, Washington have received intimation under letter dated 13-6-1975 from the lawyers, viz. Hall, Estil, Hardwick, Cable, Collingsworth & Nelson, of M/s. Agrico Chemical Company to the effect that "although the Government of India has been credited by Agrico with this sum of \$ 43,343.49 for the purpose of paying that sum to Socotra, Agrico has decided that payment to Socotra should not be further delayed. Agrico has accordingly decided to pay Socotra \$ 40,800 pursuant to Agrico's original agreement to pay Socotra \$ 1,700 per month for a 24 month period. Socotra has agreed to accept this sum from Agrico as full payment for Socotra's monthly consulting fees, and in return for the same, Socotra has agreed to assign to Agrico all Socotra's rights that have accrued to Socotra *vis-a-vis* the Indian Government by reason of the Indian Government's not paying Socotra the \$0.95 per ton which had been credited for that purpose by Agrico to the Indian Government, and Socotra has consented to payment of such \$ 43,343.49 by the Government of India to Agrico".

Further India Supply Mission, Washington has also received a copy of assignment agreement dated 19-5-1975 between M/s. Socotra International Private Limited, New Delhi and M/s. Agrico Chemical Co., Tulsa, USA, to this effect.

The Department of Supply have informed the Reserve Bank of India, Central Board of Direct Taxes and the Enforcement Directorate about this agreement reached between M/s. Socotra and M/s. Agrico.

[Department of Supply O.M. No. PIII-22(4)/75  
dated 1-11-1975]

*Department of Revenue and Insurance*

In this connection, the reply to para 1.51 given above may be referred to. This is one of the three cases centralised with the ITO Company Circle I, Delhi under the charge of Commissioner of Income-tax, Delhi-II. This is an Indian Company incorporated in April, 1966. It has been ascertained that M/s. Socotra International (Pvt.) Ltd. derive income mostly from Commission agency and a substantial portion of commission income is in respect of contracts entered into by the Department of Supply. The assessments upto and including 1973-74 have been completed. The accounts of this Company will be subjected to thorough scrutiny while completing the pending assessments under the overall supervision of the D.I. (Investigation), and the assessments of the earlier years will also be reopened, if found necessary.

[Ministry of Finance (Department of Revenue & Insurance)  
O.M. No. 241/1/75-A&PAC-I dated 13-8-1975]

*Cabinet Secretariat, Department of Personnel and Administrative Reforms*

\*The case is under investigation by the Enforcement Directorate. All attempts are being made to finalise the investigation as early as possible.

[Department of Personnel and Administrative Reforms—Cabinet Secretariat D.O. No. 42/3/75-AVD.IV dated 25-8-1975]

## CHAPTER V

### RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

#### Recommendation

Another aspect which has come to the notice of the Committee is that foreign suppliers organise what appears to be either their own branches or subsidiaries in India to function as their agents in India. For instance the Committee find that M/s. Interore, New Delhi are Indian agents for M/s. Interore, New York and the agency commission is decided in individual contracts. Similarly, M/s. Compagne Indo-Francaise de Commerce, New Delhi are the Indian agents for M/s. Comptoir Francaise De L'Azote (CFD), Paris and M/s. Indische-Osterreichische Handelsgesellschaft Pvt. Ltd., New Delhi are the Indian agents for M/s. Chemie Linz, AG. A Austria. In the former case, the principals are said to pay a fixed service fee of French Francs 20,000 a year to the Indian agents and, in the latter case, a fixed service fee of 100,000 in Austrian currency per year. Yet another instance is the payment of Italian liras 2,500,000 per year as service fee by M/s. Montedison, spa, Italy to their Indian agents M/s. Societa Commerciale Indo-Italiana Pvt. Ltd., New Delhi. In all these cases, the service fee is payable irrespective of whether any fertilizer is sold to the Government of India or not. No doubt, the Department of Supply would say that the service fee in all these cases has been paid only in Indian Rupees. The very names of these firms operating in India would, however, suggest that these are only foreign firms in the garb of 'Indian' agents. In all probability there is an interlocking of capital between some of these foreign suppliers and their so-called Indian agents. Interore, New Delhi is also perhaps, only a subsidiary of Interore, New York. If foreigners hold a substantial interest in these agencies, the repatriation of the profits of these agencies, after deduction of tax due in India, is permissible under the existing law. The Committee, therefore, desire that Government should investigate in detail such interlocking of capital and whether any such service fee, retainer or agency commission, received in rupees by such companies has been repatriated in foreign exchange as profits of the companies and,

if so, what has been the net outflow of foreign exchange in these cases. The outcome of these investigations should be reported to the Committee.

[S. No. 13 (Para 1.57) of Appendix VII to 160th Report (5th Lok Sabha)]

#### Action Taken

The Department of Banking is examining the matter.

[Department of Supply O.M. No. PIII-22(4) 75, dated 1-11-1975]

NEW DELHI;

24th November, 1975.

3rd Agrahayana, 1897 (Saka).

H. N. MUKERJEE,  
Chairman,  
Public Accounts Committee.



## APPENDIX

### Summary of Main Conclusions/Recommendations

Sl. No.	Para No. of the Report	Ministry concerned	Conclusions/Recommendations
1	2	3	4
1	1.7	Department of Supply	In the opinion of the Committee, the reply of the Department of Supply confirms their earlier conclusion that the role played by the Indian agents in regard to the purchase of fertilisers from abroad is of little, if any, use. The Department has also admitted that it has no means of checking wilful evasion by the Principal or the Agent in regard to undisclosed payments of agency commission or of preventing such payment in foreign currency. Under the circumstances, the Committee must reiterate their observation regarding the failure of Government even to ascertain the rationale for the widely divergent rates of commission.
2	1.8	-do-	The Committee have been informed by the Department of Supply, with reference to another recommendation of theirs contained in paragraph 1.61 of the Report, that the Government of India have decided that, from 1st August 1975, the work relating to procurement of fertilisers from regions other than East European countries would also be handled by the Minerals and Metals Trading Corporation, in addition to its existing responsibility of procuring fertilisers from the East European countries. The Committee expect that with this transfer of the entire work to the Corporation, all dealings in regard

to purchase of fertilisers would be handled directly with the foreign producers of fertilisers and the superfluous middlemen agents and suppliers altogether eliminated. The Committee would be watching with interest the performance of the Minerals and Metals Trading Corporation in this regard.

3

1.11 Department of Supply

The Committee are surprised to observe that in their Action Taken Notes relating to the observations contained in paragraphs 1.46 to 1.48 of the 160th Report (Fifth Lok Sabha), the Department of Supply should have merely chosen to say that the observations have been 'noted'. In paragraph 1.47 of the Report, the Committee had drawn specific attention to the non-observance of the provisions of the standard Conditions of Contract relating to the disclosure of the agency commission payable by the foreign supplier to an Indian agent, Voltas Ltd., New Delhi, while in paragraph 1.48, the Committee drew attention to five cases in which Commission had not been disclosed and had, *inter alia*, observed that they were not aware whether in respect of other contracts executed by the India Supply Mission, Washington, the commission had been invariably disclosed at the outset itself or only upon enquiries by the Mission. The replies of the Department, unfortunately, do not indicate what action, if any, Government have taken or intend to take in regard to the observations of the Committee. The reply in respect of paragraph 1.48 is also silent in regard to the position relating to the other contracts executed by the Supply Mission at Washington. The Com-

mittee deplore these deficiencies in the replies furnished by the Department of Supply and call for a more specific clarification in respect of the doubt raised in paragraph 1.48.

4            1.12    Department of Supply

Besides, the Committee would draw the pointed attention of Government to an earlier and categorical recommendation of theirs contained in paragraph 1.15 of the 5th Report (Fourth Lok Sabha), which is reproduced below:

“In respect of a number of recommendations which have been included in Appendix IV, the Committee observe that the Ministries have replied as ‘noted’. It is not clear from such replies as to what specific action Government have taken or intend to take to give effect to the Committee’s recommendations in letter and spirit. The Committee desire that Government’s replies should be explicit and self-contained. In particular, where remedial measures are called for, the details of action taken should be specifically spelt out.”

The Committee trust that the recommendations would evoke a more positive response from Government in future.

5            1.19    Department of Supply

Department of Personnel & Administrative Reforms in Cabinet Secretariat.

Department of Revenue and Insurance

The Committee note that, in pursuance of their recommendations contained in paragraphs 1.49 and 1.52 of the 160th Report (Fifth Lok Sabha), an inter-Ministerial Working Group has been set up by Government, with the Director-General of Revenue Intelligence and

Investigation as its Convener, to study 'in greater depth' the problem of Indian agents and its ramifications on the economy of the country, with particular reference to the leakage of foreign exchange and evasion of taxes and to examine the question of coordination between different Government agencies. The Committee have also been informed by the Department of Personnel and Administrative Reforms that the Working Group has made its recommendations to the Finance Secretary. The Committee would like to be apprised of the recommendations and the follow-up action, initiated by Government thereon.

6

1.22 Department of Supply

The Committee are of the view that the contention of the Department of Supply that there has been no evasion of any responsibility on the part of any Government Department is not tenable. The Department of Supply had been aware all along of the non-disclosure of agency commission in a number of cases. Government's own instructions, issued as early as May 1956, regarding disclosure by foreign principals of information about their Indian agents have not been properly followed up. It should have been possible at least to take some steps to prevent abuses on the basis of the specific instances brought out in the Audit paragraph irrespective of the issue coming up before the Public Accounts Committee. Government cannot also merely plead helplessness in this regard. In view of the fact that Government have had to appoint an inter-Ministerial Working Group to examine the entire question, it is plain that adequate

attention had not been paid earlier to this important issue. The Committee, therefore, reiterate their earlier recommendation and desire fixation of responsibility for the failure to safeguard Government's financial interests.

7. 1-26 Department of Supply

In view of the difficulties reported by the Department of Supply in tracing out cases of the past 16 years, though it should not be too complicated a task, the Committee do not insist upon the review covering the full span of 16 years. The Committee would, however, ask Government to re-examine all the cases pertaining to the period 1968 to 1974, when the purchase of fertilisers from abroad had increased manifold. Review of such cases should be completed expeditiously and the results intimated to the Committee.

8. 1-27 Do.

The Committee are unhappy over the apparent delay in forwarding the lists of cases that have been traced out to the Reserve Bank of India, Enforcement Directorate and the Central Board of Direct Taxes for further investigation and desire that this should be done forthwith, in case it has not already been done.

9. 1-32 Do.

The Committee find the reply now furnished by the Department of Supply rather intriguing. While the Department of Supply has decided not to release the payment of US Dollar 0.95 per MT, pending examination of the case in consultation with the Ministry of Law, the foreign supplier, Agrico Chemical Company, appears to have entered into an agreement with Socotra International Private Ltd. to make a payment of US Dollars 40,800 on the ground that

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'payment to Socotra should not be further delayed'. In return for this payment, Socotra has agreed to assign to Agrico all the rights that have accrued to the Indian agent *vis-a-vis* the Indian Government and consented to the payment of US Dollars 43,343.49 by the Government of India to the foreign supplier. It is not very clear to the Committee from the Department's reply whether the legal implications of Socotra entering into such an agreement which in turn is binding on the Government of India have been fully examined and the validity of the agreement ascertained, especially in view of the fact that the payment in question is under dispute. Actually, this appears to be a perverse ruse by the Indian agent to obtain payment of the disputed amount in a roundabout manner. Besides, under this agreement, since the Government of India would be liable to pay an amount of US Dollar 43,343.49 to the foreign supplier as against the payment of US Dollars 40,800 by the foreign supplier to Socotra, there would in any case be a net outflow of foreign exchange, despite the fact that the agent's commission is payable only in Rupees.

10.

1.33 Department of Supply

Another peculiar point arising out of the Department's reply is that while the alleged retainer and marketing consultancy fee payable to Socotra by the foreign supplier had been indicated initially on a 'per tonne' basis at US Dollar 0.95 per metric tonne, in the agreement now entered into between the foreign supplier and the Indian agent, the amount payable to Socotra has been worked out on:

a fixed montly basis. Obviously, there is more to this devious transaction than what meets the eye.

11.

1-34

Do.

The Committee, therefore, feel that by timely and correct action, Government could have avoided the embarrassing situation that has emerged and are thoroughly dissatisfied with the manner in which the entire case has been handled. A proper examination of the legal implications of the agreement now entered into between Socotra and Agrico is immediately called for and Government must take specific steps to foil what seems to be a surreptitious attempt by the foreign supplier and the Indian agent to carry through a transaction which, *prima facie*, appears to be unjustified. The final decision on the payment of US Dollar 0.95 per metric tonne to Socotra should also be taken after careful and expeditious consideration of the latest developments that have taken place so as to ensure that Government does not fall a prey to the devious devices employed by the trade.

12.

1-35 Department of Supply

Department of Personnel  
& Administrative Reforms  
--Cabinet Secretariat.

The Committee are also concerned over the unconscionable delay in investigation of this case by the Enforcement Directorate and must reiterate their earlier recommendation contained in paragraph 1.54 of the 160th Report that the investigations should be completed expeditiously.

13.

1-38 Department of Supply

Department of Banking.

The Committee stress that delay in such cases being undesirable, the Department of Banking should complete its examination of the interlocking of capital between different foreign suppliers of ferti-

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lisers and their own branches or subsidiaries in India which function as their Indian agents and intimate the action taken thereon to the Committee early.

14.

1-41 Department of Supply

Since Urea of relaxed specifications has been accepted by the Department of Supply, in consultation with the Department of Agriculture, the Committee would like to know whether any attempt had been made to negotiate a reduction in price for the supplies not conforming to the prescribed specifications and, if not, the reasons therefor.

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Sl. No.	Name of Agent	Sl. No.	Name of Agent
<b>WEST BENGAL</b>		32.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.
21.	Grantholoka, 5/1, Ambica Mookherjee Road, Belgharia, 24-Parganas.	33.	Bahree Brothers, 188, Lajpat Rai Market, Delhi-6.
22.	W. New Man & Company Ltd., 3, Old Court House Street, Calcutta.	34.	Jayna Book Depot, Chhapparwala Kuan, Karol Bagh, New Delhi.
23.	Firma K. L. Mukhopadhyay, 6/1-A, Banchharam Akrur Lane, Calcutta-12.	35.	Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi.
24.	Mrs. Manimala, Buys & Sells, 128, Bow Bazar Street, Calcutta-12.	36.	People's Publishing House, Rani Jhansi Road, New Delhi.
25.	M/s. Mukerji Book House, Book Seller, 8B, Duff Lane, Calcutta.	37.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.
<b>DELHI</b>		38.	Hind Book House, 82, Janpath, New Delhi.
26.	Jain Book Agency, Connaught Place, New Delhi.	39.	Book Well, 4, Sant Nirankari Colony, Kingsway Camp, Delhi-9.
27.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	40.	M/s. Saini Law Publishing Co., 1899, Chandni Chowk, Delhi.
28.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	<b>MANIPUR</b>	
29.	J. M. Jaina & Brothers, Mori Gate, Delhi.	41.	Shri N. Chaob Singh, News Agent, Ram Lal Paul High School Annex, Imphal.—MANIPUR.
30.	The Central News Agency, 23/90, Connaught Place, New Delhi.		
31.	The English Book Store 7-L, Connaught Circus, New Delhi.		

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