

**PUBLIC ACCOUNTS COMMITTEE
(1969-70)**

NINETY-FIRST REPORT

(FOURTH LOK SABHA)

**[Action taken by Government on the Recommendations
of the Public Accounts Committee contained in
their 57th Report (Fourth Lok Sabha) on Audit
Report (Civil), 1968 relating to the Ministry of
Foreign Trade & Supply (Department of
Supply)]**



**LOK SABHA SECRETARIAT
NEW DELHI**

January, 1970/Pausa, 1891 (Saka)

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CONTENTS

Page

CORRIGENDA TO NINETY-FIRST REPORT (1969-70) OF
P.A.C. (PRESENTED TO THE LOK SABHA ON 4.3.1970.)

<u>Page</u>	<u>Line</u>	<u>for</u>	<u>Read</u>
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CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE	(iii)
INTRODUCTION	(v)
CHAPTER I	I
CHAPTER II Recommendations/Observations that have been accepted by Government	13
CHAPTER III Recommendations/Observations which the Committee do not wish to pursue in view of the replies of Government	60
CHAPTER IV Recommendation s/Observations replies to which have not been accepted by the Committee and which require reiteration	72
CHAPTER V Recommendations/Observations in respect of which Government have furnished interim replies	88
APPENDIX Summary of main Conclusions/Recommendations	89

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(1969-70)

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SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

Shri K. Seshadri—*Under Secretary.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Ninety-First Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 57th Report (Fourth Lok Sabha) on Audit Report (Civil), 1968 relating to the Ministry of Foreign Trade & Supply (Department of Supply).

2. On 7th June, 1969, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

1. Shri N. R. M. Swamy *Convener*
2. Shri H. N. Mukerjee
3. Shri K. M. Koushik
4. Shri Tayappa Hari Sonavane
5. Prof. Shanti Kothari
6. Shrimati Sushila Rohatgi

3. The draft Report was considered and adopted by the Sub-Committee at their sitting held on 8th December, 1969 and finally adopted by the Public Accounts Committee on 25th December, 1969.

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 recommendation|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.

ATAL BIHARI VAJPAYEE,

Chairman,

Public Accounts Committee.

NEW DELHI;
January 6, 1970|Pausa 16, 1891 (S).

CHAPTER I

REPORT

This Report of the Committee deals with action taken by Government on the recommendations contained in their 57th Report (Fourth Lok Sabha) on the Audit Report (Civil), 1968 relating to the Ministry of Foreign Trade and Supply (Department of Supply) which was presented to the House on 1st April, 1969.

1.2. Action taken notes|statements on the recommendations of the Committee contained in this Report have been categorised under the following heads:

(i) *Recommendations|Observations that have been accepted by Government:*

S. Nos. 1, 2 (Para 1.22), 3, 4, 5, 6, 7 (Paras 1.41, 1.43 & 1.44) 9, 10 (para 1.73), 11 and 14.

(ii) *Recommendations|observations which the Committee do not desire to pursue in view of the replies of Government:*

S. Nos. 2 (para 1.21), 8 and 10 (para 1.72).

(iii) *Recommendations|observations replies to which have not been accepted by Committee and which require reiteration:*

S. Nos. 12 and 13.

(iv) *Recommendations|observations in respect of which Government have furnished interim replies:*

S. Nos. 7 (para 1.42).

1.3. The Committee will now deal with action taken notes received on some of the recommendations.

Purchase of sub-standard disinfectant fluid—paragraphs 1.103 and 1.04 (S. No. 12).

1.4. In paragraphs 1.93 to 1.102, the Public Accounts Committee had examined a case of supply of disinfectant fluid against rate contracts on two firms in Bombay and Lucknow placed by the Director General, Supplies & Disposals in July, 1963. 2.14 lakh litres of fluid supplied by one of the firms (Lucknow Firm) to the Southern Rail-

way and Medical Stores Depot, Madras turned out to be sub-standard and could not be used for the purpose for which it was obtained. The firm failed to replace the defective fluid. The case was referred to the Central Bureau of Investigation. The Public Accounts Committee made the following observations in paragraphs 1.103 and 1.104:—

“1.103. The Committee note that 2.14 lakh litres of disinfectant fluid supplied by a firm to the Southern Railway and the Medical Stores Depot, Madras, turned out to be sub-standard and could not be used for the purpose for which it was obtained.

The firm could not, however, be compelled to replace the fluid as legal opinion obtained by Government indicated that the supplier was not obliged to replace it. The Committee also note that tests on the fluid conducted at different stages produced varying results and that Ministry of Health suspect that there was “some criminal interference at all stages of tests”, apart from possible mis-representation by the firm about the dates of manufacture of the fluid. As the matter is stated to be under investigation, the Committee would like to await the results of the investigation.”

“1.104. The aspect of the case, however, call for comments at this stage. The chronological account of the developments in the case as furnished to the Committee by the Railway Board suggests that effective action on the complaint was not taken by the Director General, Supplies and Disposals promptly enough. In fact, a year after the complaint was lodged, the Director General, Supplies and Disposals informed the Railways incorrectly that the complaint was not lodged before the expiry of the stability period of the fluid. The Committee would like Government to examine how far the procedure adopted by the Director General, Supplies and Disposals, in processing the complaint was instrumental in frustrating Government's claims against the firm for the deficiencies in the supply. The Committee also notice that the Railways on their part asked the Director General, Supplies and Disposals to procure 18 months' requirements without specifically considering that the stability period of the fluid was only six months. The Committee note that the specification for the fluid has since been revised to 12 months. They hope that in future the Railways will ensure that supplies are

3

not indented for at any one time for a period in excess of the prescribed stability period of the fluid."

1.5. In their reply dated 18th September, 1969, the Department of Supply have stated:

Para 1.103. "The Central Bureau of Investigation had investigated into the supplies made by the firm to the South Eastern Railway and not the Southern Railway. On the basis of the CBI's investigations and in consultation with the Central Vigilance Commission, the Firm was blacklisted and the Assistant Controller of Stores, South Eastern Railway was "Censured". No action was, however considered necessary in respect of the inspectors of the DGS&D.

As regards the supplies made to the Medical Stores Depot, Madras, the Ministry of Health made a reference to the Central Bureau of Investigation on the 29th June, 1969. The Central Bureau of Investigation, however, did not carry out any investigation but informed the Health Ministry on the 30th July, 1968 that as the tests on the samples taken from the supplies of the firm were carried out long after the expiry of the stability of the disinfectant fluid, they could not provide a good basis for a possible criminal prosecution, and, therefore, the CBI did not consider any further investigation necessary.

The conduct of the inspecting staff was looked into and it was held that the inspector had done his best in the circumstances."

Para 1.104. "As regards the first point that effective action on complaints was not taken by DGS&D promptly, the case is being examined. The results will be communicated to the Public Accounts Committee in due course.

The second point regarding submission of indents concerns the Ministry of Railways (Railway Board) and as such this Department have no comments to offer.

1.6. In regard to procedure for indenting commented upon in para 1.104 above, the Ministry of Railways have stated in their reply dated the 28th May, 1969:

"The observations of the Committee are noted so far as the Ministry of Railways are concerned and suitable instructions have been issued to the Railway Administrations vide letter No. 68-B(C) Genl. 17 dated 25th May, 1969 (copy attached)."

1.7. The Committee find from the letter of the Central Bureau of Investigation referred to in the reply given by the Department of Supply the following account of the developments in the case, so far as supply to the Medical Stores Depot was concerned:

“.....On an order placed by Dy. Asstt. Director General (Medical Stores Depot) Madras on 15th October, 1963 this firm supplied 1,15,000 litres in 4,757 drums on five different dates between 18th February, 1964 and 4th May, 1964. The supplies were passed by an Asstt. Inspector of the Directorate of Inspection, Calcutta according to the terms of the contract.

In March 1964, a rival firm complained that the stores supplied by M/s. Bengal Tar Products were sub-standard. On this complaint the DADG (MSD), Madras had samples taken from the supply at Madras on 15th April, 1964 by the Drugs Controller, Madras. The samples were tested by the Government Analyst Madras who found them substandard. When the matter was taken up with the firm they represented that fresh samples may be taken in their presence and tested again. Fresh samples were accordingly taken on 17th May, 1965 and got tested at the National Test House, Alipore. Test results again showed them sub-standard.

When the matter was pursued with the firm for making fresh supply in replacement, the firm declined to make supply. They took refuge under the plea that their initial supplies had been duly passed by the Directorate of Inspection and the results of tests conducted after 15th April, 1964 would not be valid because the prescribed period of stability according to the contract was only 6 months and, therefore, chemical analysis conducted after the period of stability might show deviations from the standard required. This plea was supported by the opinion of the Indian Standards Institution and also the Directorate of National Test House, Calcutta.”

“.....The earliest sample in this case was taken on 15th April, 1964 by the Drugs Controller, Madras. The tests were conducted to see if the disinfectant was upto the standard prescribed under the Drugs Rules. There is no mention in this report about IS specification No. 1061—1967 with amendment No. 1 of December, 1962, which is the specification mentioned in the rate contract. When sam-

ples were taken by the Drugs Controller, Madras this particular point had perhaps been overlooked. In the subsequent test results conducted at Calcutta the correct specification mentioned in the rate contract had been taken up for check. These tests, however, were conducted after 17th May, 1965 only, long after expiry of the period of stability of the disinfectant fluid. The available test results in this case do not, therefore, provide a good basis for a possible criminal prosecution, even if additional evidence should be forthcoming now.

1.8. The Central Bureau's account of this case concludes as under:

"The D.G.H.S. has already requested the DGS&D to conduct a detailed check from the vigilance as well as technical angle regarding the conduct of inspecting staff who passed these supplies in the first instance. It is presumed that the DGS&D would have made this check and taken suitable action. It does not seem necessary or desirable for the Central Bureau of Investigation to make a further check on the same points at this stage. As the D.G.S. & D. has already been requested to conduct an enquiry into the conduct of the Inspecting staff, we would be grateful if a copy of the report of DGS&D is made available to us soon. If its examination shows that any further enquiry is necessary by the Central Bureau of Investigation against any officer of the DGS&D etc., we will let the Ministry know and then proceed further."

1.9. The Committee asked the Department of Supply to furnish a copy of the report of the enquiry made into the conduct of inspecting officers. The Department of Supply have in their reply stated that "the conduct of the inspecting staff had been examined even before the receipt of CBI's letter" and furnished copies of certain notings dated 21st July, 1967. This states "that the mode of sampling adopted by the Inspectors was not strictly as per governing specification or as per instructions given but all the same he took precautions to draw samples from much larger number of containers to make a composite sample. The composite sample drawn from the lot and sent to the Medical Stores laboratory was declared as acceptable. In view of the above the Inspector had done his best he could do under the circumstances."

1.10. From the papers given to them the Committee have to conclude that a detailed check from the vigilance as well as technical angle regarding the conduct of inspecting staff who passed these supplies in the first instance as desired by the DGMS has not been made.

1.11. The Committee are not happy about the manner in which Government investigated complaints about the quality of disinfectant fluid supplied to the Medical Stores Depot, Madras. The supplies to the depot (1.15 lakh litres) were made between 18th February, 1964 and 4th May, 1964. The earliest samples for test which showed the fluid to be sub-standard, were taken on 15th April, 1964, but the test report was vitiated, because it made no mention about the relevant specifications of the fluid. Moreover, the samples were not drawn in the presence of the firm's representatives. Subsequent samples for test, which again showed the fluid to be sub-standard, were taken on 17th May, 1965 but this was long after the expiry of the prescribed period of stability for the fluid. The test results did "not therefore provide a good basis for a possible criminal prosecution" and the Central Bureau of Investigation had consequently to give up further investigations.

1.12. The Committee would like Government to investigate the omissions that occurred at several stages of testing and the reasons for the intervening delay after the original test had established the disinfectant fluid to be substandard within the period of stability. The Department of Supply have stated that the inspector who passed the supplies "had done his best in the circumstances". The Committee are unable to appreciate the basis for this inference, particularly as the test conducted on samples drawn as early as April, 1964 (i.e., within two months of the commencement of supply showed the fluid to be sub-standard. It is true that the test report did not mention the specification but this apparently was a technical or procedural omission, which did not detract from the fact that the fluid was sub-standard. The Committee would like Government to re-examine the question of responsibility of the inspecting staff involved in this case.

1.13. In para 1.104 of their 57th Report, the Committee had drawn attention to another aspect of this case, arising out of the supplies made to another consumer, the Railways. This was the question how far the dilatory procedure adopted by the inspecting staff of the D.G.S. & D. in dealing with complaints from the Railways were instrumental in frustrating Government's claims against the firm for deficiencies in supply. The Committee are unhappy about the delay in processing the investigations as lapse of time makes it difficult to find the truth and helps the defaulter. They suggest its expeditious conclusion.

Avoidable expenditure—Paragraphs 2.12 and 2.13 (S. No. 13)

1.14. Referring to a case of premature termination of an agreement entered into by the India Supply Mission, London with a firm of shipping agent, on *ex-gratia* considerations, the Committee had made the following observations in paragraphs 2.12 and 2.13 of their 57th Report (Fourth Lok Sabha):—

“2.12. The Committee note that an agreement executed by the I.S.M. with a firm of shipping agents, which in the normal course would have run upto 23rd September, 1967, was prematurely terminated by Government with effect from 31st March, 1966, on an *ex-gratia* basis, to save losses to the firm. In the result, Government incurred an extra expenditure of £19,320 by way of remuneration of a new firm who were appointed as shipping agents. Further, as the appointment of the new agents could not be synchronised with the termination of the agreement with the old agents, the old agents had to be asked to continue for the interregnum of payment of a sum of £5,045 which would have been avoided had the agreement executed with them continued to be in force. The Committee also understand from Audit that the termination of the agreement gave rise to a claim for the revision of an agreement executed by the Ministry of Transport with one of their overseas agents which had also to be agreed to.”

“2.13. The Committee consider it unfortunate that Government should have come to a decision on the termination of the Agreement without fully weighing the consequences of the decision. What the Committee find hard to understand is why Government committed itself to the termination of the agreement, before even tenders for the appointment of the new agents had been called. Government were hardly in a position to assess what the cost of their commitment was going to be. Government have stated that they agreed to the termination on the “equities of the case”, but it is not clear how a decision in this regard could be arrived at when the firm did not agree “even to make their books available for checking the losses.” The Committee cannot resist the impression that, in arriving at a decision to terminate the agreement, the interests of Government were not adequately safeguarded.”

1.15. In their reply dated 9/10-10-1969 the Department of Supply have stated:

- "1. In 1962 when the Ministry of Transport took over the responsibility of making shipping arrangements in respect of consignments, contracts for which were signed by the Indenting Authorities in India, they entered into an agreement with a West German firm of Forwarding Agents known as....., under which they were not to receive any payments from Government, but were to be compensated by the income to be received by them in the form of a commission of about 2½ per cent of the freight payable on continental shipments by the ship owners direct. It may be clarified here that no such commission was or is payable by shipowners in respect of shipments from the U.K. At that time continental shipments were about 70 per cent and U.K. shipments about 30 per cent of the total cargoes involved. On the analogy of the arrangements made by the Ministry of Transport, the Department of Supply entered into a similar agreement with M/s. in respect of orders placed by I.S.M., London. Prior to entering into an agreement with M/s. in September, 1962, they were in receipt of 6 pence per ton on U.K. cargoes for the first one lakh tons a year, 3 pence per ton for the balance of the cargoes for each year and 6 pence per ton on continental cargoes subject to a minimum of £1,250. With the agreement executed with them in September, 1962, they ceased to get this commission. They were thus left to finance their expenditure from the commission of 2½ per cent on the continental freight which they earned from the Conference Lines as Forwarding Agents. The agreement had proceeded on the understanding that the U.K. cargoes would be in the neighbourhood of 30 per cent or so on which they were not entitled to any commission and the continental cargoes about 70 per cent on which they would get 2½ per cent commission. Prior to the conclusion of this agreement with M/s., the India Supply Mission, London had a full-fledged Shipping Directorate. The work which was being undertaken by this Directorate was transferred to the Shipping Agents and a reduction in expenditure to the extent of £42,000 per annum was brought about.
2. The disposition of the Cargoes, mentioned above, was however upset on account of the Chinese aggression in

1962 which resulted in a major switch-over of purchases from the Continent to U.K. The firm, therefore, complained that they were suffering losses and asked for revision of the agreement in June, 1964. Efforts were made by the Government to persuade the Shipping Agents to continue with the work. Even though some remuneration was offered to them no conclusion could be reached on this point and the firm requested that they be absolved from the agreement with effect from 31st December, 1965 on the grounds that they were suffering heavy losses. It may be mentioned that while the question of affording some relief to the shipping agents during the pendency of the then existing agreement was under consideration, the Audit observed that no remuneration beyond the scope of the agreement should be agreed to without considering the propriety of inviting fresh tenders. Tenders were accordingly invited on 18th October, 1965 and the cancellation of the agreement with Behr Behrend was to be effective from 31st March, 1966. It was expected that the new agents would be appointed by 1st January, 1966 with the total assumption of duties by 31st March, 1966. Actually, however, it was possible to appoint the new agents on the basis of lowest acceptable offer with effect from 1st June, 1966 only. During the interim period (i.e. from 1st April, 1966 to 31st May, 1966), M/s. was asked to continue on payment of a suitable remuneration.

3. The following reasons weighed with the Government in foreclosing the agreement:—

- (a) M/s. had served the Government of India faithfully for over 30 years and the forwarding agency agreement had proceeded on the understanding that the U.K. cargoes would be in the neighbourhood of 30 per cent and the continental cargoes about 70 per cent. No commission was earned by the Forwarding Agents in respect of U.K. cargoes. They were to finance themselves from the 2½ per cent commission earned by them on continental shipments. The Chinese aggression in 1962 resulted in a major and continuing switch-over of purchases to U.K. Consequently, the commission earned by them on continental shipments was inadequate to cover all their expenses.

- (b) By entering into forwarding agency arrangements with M/s. in 1962, the Government of India not only saved the remuneration which would have amounted to £4,050 actually paid in 1961-62 but also it had saved not less than £42,000 per annum by retrenching the staff doing the shipping work in the India Supply Mission, London.
- (c) At the time the agreement was entered into it was expected that 70 per cent of the cargoes be from the continent and 30 per cent from U.K. To the extent, therefore, that the U.K. cargoes rose above 30 per cent, which was not expected by the Shipping Agents, there could be no objection to giving some *ex-gratia* consideration to the proposal made by M/s. As pointed out in (b) above, the expenditure in any case was much less than what was incurred by Government before the special arrangements were made in 1962.
- (d) Regarding the question of loss, it is felt that had Government persisted with a reluctant shipping agent and insisted on specific performance of the agreement, the indirect loss, to the Government through dislocation of shipment of stores could have been larger. The bulk of the large value stores imported from the Continent are required to meet vital requirements of the Defence and other priority indentors. The charges which the Government pay to the Forwarding Agents for their services form only a fraction of the cost of the stores. It might have been open to the Government to have insisted upon the fulfilment of the contract with M/s. and if necessary to have enforced its rights in a Court of Law on the failure of the firm to perform the contract for the full period of its currency, but it is doubtful how far it would have been worthwhile keeping in view the equitable considerations stated above. In this context, a satisfactory shipping arrangement on payment of certain extra charges was in the overall interest of the Government.
4. The Ministry of Transport & Shipping also, appreciating the fact that Government's contractors cannot be expected to serve them without a reasonable income, amended their own agreement with the Forwarding Agents in

response to a request made by the latter in May, 1966, so as to provide for some compensation in the event of disproportionate rise in the non-remunerative portion of the shipments (i.e. those from the U.K.) and a consequent drop in the remunerative portion (i.e. those from the Continent). The actual formula agreed upon was as follows:—

In the event of the U.K. shipments going above 35 per cent and the Continental shipments falling below 65 per cent of the total in terms of freight, payment would be made at the rate of 1 per cent of the value of freight on all U.K. shipments (1/2 per cent in the case of steel) provided that the total remuneration that would accrue to the firm both by way of commission from the shipments from West-Europe as well as on account of payments from the Government of India would not exceed 1.75 per cent of the total freight on all shipments. Up to date, the disposition of cargoes has been such that no payment has been made by Government to Sehenkers.

5. Government had envisaged that it would be possible to appoint the new Shipping Agents by 1st January, 1966 with the total assumption of duties by 31st March, 1966. Unfortunately, however, this expectation did not materialise. The shipping agents were maintaining a large staff and it was necessary for them to know a definite date sufficiently in advance about the termination of the contract, as they were morally and legally bound to give appropriate terminal notice to their employees.
6. As regards checking of the books of the firm, to verify their statement of loss, an extract of minutes of meeting held in London on 20th May, 1965 is reproduced below:—

“To a query of the Director General they (M|s. Bahr Behrend) agreed that a representative of the India Supply Mission might visit their offices in London and Liverpool to satisfy himself about the figures. Bahr Behrend would willingly make available the books and documents but there were certain books and documents which in principle they could not make available to any one outside the company. In respect of these would have no objection to either a

firm of recognized British Accountants examining these or alternatively, to their producing certified statements by their own Auditors."

The question of examining the books was not pursued since it was proposed to invite tenders and to terminate the agreement without compensating the firm for the losses claimed to have been incurred by it in the previous years. The examination of the books of the firm would have been necessary if it had to be compensated for its losses, but it was not necessary for a premature termination of the agreement, as was decided in this case.

7. The Government kept in view its interests while terminating the old agreement and entering into a new one."

1.16. The Committee are not convinced by the arguments put forward by Government for the premature termination of the agreement with the shipping agents. As pointed out earlier in their 57th Report (Fourth Lok Sabha), this involved an extra expenditure of £24,365. Government have stated that the agreement, which provided for the agents reimbursing themselves out of freight commission (without any remuneration as such from Government) "proceeded on the understanding that the U.K. cargoes would be in the neighbourhood of 30 per cent or so... and the continental cargoes about 70 per cent." The agreement itself, however, does not show that this was the basis of the understanding between Government and the shipping agents. In any case, apart from such legal considerations, no effort was in fact made by Government to ascertain from the books of the firm that the agreement was causing them "heavy losses". Government have also pointed out that the firm had been serving them "faithfully for over 30 years" and saved Government "not less than £42,000 per annum". It is inconceivable that a firm would have persisted in any arrangements made with Government unless they were remunerative to them. The Committee hope that Government will draw a lesson from their experience in this case and will not allow extra contractual considerations to cloud their judgment in business dealings with foreign firms in future.

CHAPTER 11

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee notice that 20 out of 96 compressors supplied by the firm were out of commission as on 1st July, 1968, nine of them due to defects for which the supplier has been held liable. The Committee also observe that, against 1200/1500 hours for which machinery and equipment are used in projects in Border Roads, 20 of the compressors had rendered less than 600 hours service and 40 compressors between 600 and 1300 hours as on 1st July, 1968, i.e. nearly two years after the compressors had been supplied by the firm. The Committee would like Government to examine how far the poor utilisation was due to defects in the equipment supplied and how far due to over-estimation of requirements by Director General, Border Roads. The supplier should also be asked to have the defective compressors speedily repaired.

[S. No. 1 (Para 1.15) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

Out of 20 compressors reported to be off the road on 1st July, 1968, 11 went off the road for overhaul after normal wear and tear and not due to any defects attributed to the manufacturers. The remaining 9 compressors have since been repaired by the firm. There was under utilisation of the compressors to some extent because due to defects some compressors remained off the road for long periods till an agreement for the extension of the warranty was reached with the firm in April, 1968. While the average run in respect of these compressors was 624 hours upto July 1968, it improved to an average of 1164 hours per year recently which compares favourably with the overall average.

[Ministry of Foreign Trade and Supply (Deptt. of Supply) O.M. No. 12(49)/67-P.III/Dated 13-10-1969].

Recommendation

Another aspect of the case to which the Committee would like to draw attention relates to the capacity of the compressors supplied by the firm. According to the requirements of the Director General, Border Roads, the compressors were required to take a load of three rock drills at specified altitudes. The capacity of the compressors supplied, as first indicated by the firm in their original offer in response to the tender notice, was less than the capacity stipulated by a Technical Committee in the Directorate General, Supplies and Disposals on the basis of this load factor. However, subsequent to the opening of tenders, the firm revised the capacity of the compressors and on this basis, apparently they were accepted as conforming to the requirements of Director General, Border Roads. In the light of the reports from the Border Organisation that the compressors were not capable of running three rock drill over sustained periods, the Committee would like Government to investigate whether the compressors supplied by the firm have the capacity actually stipulated in the tender enquiry.

[S. No. 1 (Para 1.16) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

The capacity of an equipment should, as far as possible and practicable, be described in absolute terms which can be easily understood by trade. Capacity of compressors is, therefore, specified as 'so many cubic feet per minute of free air at such and such pressure in pounds per square inch etc. at normal temperature pressure'. In brief '.....CFM of free air at lbs. per sq. inch at NTP.' The operating altitude and climatic conditions should also be stipulated for the guidance of the tendering firm. Specifying capacity in terms of a number of Rock Drills to be operated in unscientific and ambiguous as the requirement of each rock drill depends on its type, make, efficiency, etc. Reference to the number of Rock Drills had, therefore, to be ignored in the second invitation to tender. It has been proved beyond doubt that the compressors are capable of performing the specified duty over sustained period.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(49)/67-P-III, dated 5-11-1969].

Further Information

Boarder Boards Development Board

DGBR has confirmed the portion sidelined 'X' of the action taken note on para 1.15 of 57th Report of the P.A.C. furnished by Ministry of Foreign Trade and Supply (Department of Supply) which reads as under:

"While the average run in respect of these compressors was 624 hours upto July 1968, it improved to an average of 1164 hours per year recently which compares favourably with the overall average".

BRDB U.O. No. F. 11(4)/BRDB-S/68 dated 8-12-1969.

Recommendation

The Committee would like Government to issue instructions to ensure that all the conditions of supply are intimated to the tenderers well in advance and that prescribed procedure in the matter of ascertaining the capacity of the tenderers is strictly and correctly followed.

[S. No. 2 (Para 1.22) of Appendix VI to the 57th Report (Fourth Lok Sabha)].

Action Taken

It has been prescribed in the check points enumerated in the Office Order No. 98 dated 4th September, 1967 and reiterated vide Office Order No. 23 dated 1st January, 1969 (Annexure I) that the Purchase officer should ensure that tender enquiry is complete and all the relevant clauses have been incorporated. Vide S. No. 19 of the check points referred to pre-estimated liquidated damages clause is to be inserted in the tender enquiry for critical items and other important stores.

2. Instructions exist vide office order No. 28 dated 4th April, 1967 and reiterated vide office order No. 8 dated 1st January, 1969 that the capacity report should be called for in cases where necessary. Copies of the office orders are enclosed (Annexure II and III).

[Ministry of Foreign Trade & Supply, (Department of Supply) O.M. No. 12 (13) 67-P III dated 28th October, 1969].

ANNEXURE I

Government of India
DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS
(CO-ORDINATION SUPPLIES SECTION CDN-2)
NEW DELHI

Office Order No. 23

Dated 1st January, 1969.

SUBJECTS:—*Check points for indent planning preparation of tender enquiry, consideration of tenders, drafting of contract and finalisation of purchase cases.* ..

Sets of check points for indent planning, preparation of tender enquiry, consideration of tenders, drafting of contracts and finalisation of purchase cases were circulated vide O.O. Nos. 98, dated 4th September, 1967 and O.O. No. 31, dated 4th March, 1968. A set of revised check points drawn up for the guidance of the purchase officers|sections is enclosed.

2. It should be noted that the check points listed are only intended to be a guide for the purchase officers| sections. They are by no means complete or exhaustive and the purchase officers have to take into account the details instructions contained in the Manual of office Procedure for Supplies, Inspection and Disposals and other instructions issued from time to time.

Sd/- M. M. PAL,
Deputy Director (CS-I).

STANDARD DISTRIBUTION

(On file No. CDN-2|6 (II) |I|69.

II. Check Points for Preparation of Tender Enquiry:

1. Ensure that standard forms are used for issue of tender enquiry and all amendments authorised to these forms from time to time are carried out before issue.
2. Has time and date for receipt of tenders been indicated
3. Has the time and date for opening of tenders been indicated?
4. Has reasonable time been allowed to the tenderers to submit their quotations?
5. Has the period for which the tenders are to be kept open for acceptance been indicated realistically keeping in view the nature of the store and the time lag likely to be involved where consultation with the indenter on the suitability of offers received would become necessary?

6. Ensure that description of stores including specification|drawing is correctly indicated in the schedule.
7. Ensure that the tender enquiry is signed for and on behalf of the purchaser.
8. Tender sample should not normally be called where there is clear specification|drawing. Where tender sample is called and is required to be furnished to an authority specified for testing a copy of the enquiry should be furnished to the authority concerned. The time within which the sample should be submitted should also be indicated in the enquiry.
9. Ensure that the conditions of contract applicable has been correctly indicated in the enquiry.
10. Ensure that the clauses contained in the standard forms used for issue of tender enquiry and the Central and Special Conditions of Contract should not be reproduced in the tender enquiry.
11. Check in case of stores where small scale units will be interested sufficient number of copies of the tender enquiry as required under the rules are sent to the NSIC.
12. Have the following clauses been correctly incorporated?
 - (a) Sales Tax.
 - (b) Revised Customs Duty Clause.
 - (c) Excise Duty.
 - (d) Transit insurance.
13. Have you clearly indicated in the Invitation to Tender that if replies to the questionnaire in form No. DGS&D-100B are evasive and not clear, the tenders are liable to be ignored?
14. Have you incorporated in the enquiry a warranty clause in respect of stores where warranty clause is necessary?
15. Have you included the appropriate price variation clauses in the enquiry where such a provision is necessary?
16. In case of purchase of imported stores ensure that the appropriate Shipping clauses are incorporated in the tender enquiry—Other special conditions viz. payment terms for FOB|FAS contracts etc. should also be indicated in the enquiry.

17. Have you incorporated in the enquiry the special clause relating to coverage of additional quantity upto 25 per cent.
18. Ensure also that all other Special Conditions as per existing orders are incorporated in the tender enquiry.
19. Ensure insertion of pre-estimated liquidated damages clause in the tender enquiry in respect of critical items and other important stores.
20. Laydown principles of or evaluation of tenders with the approval of the competent authority and get C/S and ranking statement prepared accordingly.
21. Special points in regard to risk purchase tender enquiry.
 - (i) Risk purchase tender enquiry should be on the same terms and conditions of the original enquiry.
 - (ii) As far as possible risk purchase should be made by advertised tender.
 - (iii) In special cases where limited tender enquiry is issued the defaulting firm should be given an opportunity to quote unless the breach of the original contract was caused on account of his inability to supply goods of the contract description.
22. No firm which has been blacklisted|banned|suspended should be addressed to quote.

* * * *

IV. Check Points for Preparing|Checking Draft Contract:

1. Have the name and address of the contractor been correctly incorporated in the A|T?
2. Have you satisfied yourself that the delivery period stipulated in the contract is in accordance with the delivery offered by the tenderer and is not vague?
3. If the firm has asked sales taxes extra, have you made provision for that in the contract indicating specific rate of taxes?
4. If the firm has asked for excise duty as extra, have you made provision for that in the contract?
5. Have you ensured that the terms and conditions stipulated in the contract are accepted by the firm in its offer?

6. Have you given the consignee instructions correctly?
7. Have you given despatch instructions correctly?
8. Have you shown the inspection authority and Inspecting Officer correctly?
9. If the inspection responsibility is that of sub-office of an Inspection Circle, have you also endorsed a copy of the contract to the concerned sub-office?
10. Have you given the head of account and Accounts Officer of the Indentor correctly?
11. Has the arbitration clause been properly incorporated in the contract in keeping with answer to Q. No. 14 from DGS&D 100-B in firm's tender?
12. Have you ensured that the specification given in the contract are in accordance with those accepted by the firm and are complete in all respects?
13. Have you satisfied yourself that all relevant communications from the contractor have been referred to in the contract?
14. Have you ensured that the name of the paying authority is correctly mentioned in the contract?
15. Has the firm, if unregistered, agreed to deposit security against the contract? If so, has the necessary provision been made in the contract?
16. In case of approval of advance sample|drawing by the indentor|consignee, has a definite time limit been laid down for the return of the approved sample|drawing?
17. Has the transit insurance clause been correctly stipulated?
18. Have copies of the contract been correctly endorsed particularly to the Inspector and the Pay & Accounts Officer?
19. Is the 'Steel Clause' stipulated in the contract strictly in accordance with the tender condition and Essentiality Certificate obtained from MES Section and attached to the A/T?
20. In case of imported stores where import Recommendation Certificate is required to be issued, is the IRC being issued with the A/T?

21. In case of imported stores, has the Customs Duty Clause been correctly incorporated?
22. If the firm has agreed to placement of additional 25 per cent quantity, has the Government's right been reserved upto the agreed date?
23. Has a Warranty Clause as agreed to by the firm been incorporated? Where necessary stipulate condition for furnishing Warranty|Bank Guarantee|Performance Bond|Hypothecation deed/Indemnity Bond etc. after getting the forms of the same vetted by the Contract Officer.
24. Have you ensured that all the clauses|conditions|stipulation proposed to be included in the contract according to the purchase proposal or based on the advice of the Min. of Law, if any, have been duly incorporated in the draft contract?

* * * *

COPY

ANNEXURE II

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS
(CO-ORDINATION SUPPLIES SECTION IB) NEW DELHI-1.

OFFICE ORDER NO. 28

Dated 4-4-1967.

SUBJECT.—*Capacity reports—calling of.*

It has been observed that capacity reports are being called for indiscriminately by the Purchase Officers in respect of unregistered firms, thus throwing an un-necessary heavy burden on the Inspectorate and resulting in undue delays in the coverage of demands. The existing instructions have been received in consultation with the Inspection Wing and it has been decided that the following 'Do's' and 'Don'ts' should be kept in view in the matter of calling of capacity reports:—

'Do's'

(1) Lower offers from unregistered firms which may fall within the zone of consideration should be carefully examined and capacity reports should be asked for only in respect of such lower tenderers whose offers are considered technically acceptable. This will apply to firms who may not be SSI Units.

(2) In respect of lower offers from unregistered SSI Units, it should first be examined whether the stores on demand is a simple item or a difficult item involving safety angle. In the former case, only a competency certificate from N.S.I.C. should be asked for in respect of such firms whose offers are technically acceptable and who fall in the zone of consideration. As the competency certificate also includes the capacity of the firms, it should be enough for placement of contracts on SSI Units on receipt of the same in such cases. However, in the latter case i.e. tenders of difficult stores or of stores where safety factors are a consideration, capacity reports should be called for from our Inspectorates and no competency certificate at that stage asked for from NSIC.

(3) If for any valid reasons it sometimes becomes necessary to call for a fresh report even on registered firms, in such cases the

Inspectorate should be told of the reasons why a further report has been called for.

(4) Where a sole-selling agent has quoted on behalf of an indigenous manufacturer and the manufacturer is not registered with us, the capacity of the manufacturer need only be asked for and the agent should be called upon to produce sole selling agreement with the manufacturers for the satisfaction of the Inspectorate, where considered necessary.

(5) Capacity reports as satisfactory are valid for one year only but if an unregistered firm has been awarded a contract on the basis of such a report and they have executed the same satisfactorily, no further report for the same stores need be asked for in their case and, if for some valid reasons, it is considered necessary to do so, the period of one year should be reckoned from the date of completion of last supplies.

(6) If a capacity report is adversed, the same should not be reviewed in less than three months. But if the firm produces satisfactory evidence to indicate that they have removed the deficiencies|shortcomings in their capacity as observed earlier, there should be no objection in undertaking a review in such genuine cases even earlier than three months.

(7) Capacity reports on all the unregistered firms, whose offers may be technically acceptable and may be in the zone of consideration, should be obtained simultaneously and not piecemeal. Full particulars of the stores required and as offered by the firm(s) should be furnished to the Inspectorate and where capacity reports on more than one firm are called for simultaneously, as many copies of Schedule to Tender and drawings|specifications as the number of firms on whom reports are required, should be sent to the Inspectorate.

(8) Cases where firms registered for some other stores have quoted and the stores on tender is allied or less difficult|complicated, than the stores for which they are already registered, no capacity report in such cases need be called for, subject to confirmation from the Inspection Wing.

'Don'ts'

(1) No security deposit should be asked for from SSI Units which are not registered with the DGS & D., but whose capacity may have

been reported as satisfactory by our Inspectorate, provided NSIC confirms that the firm is registered with them.

(2) No capacity report should be called for in respect of firms either recommended by the DGTD or borne on the list of DGTD as scheduled industries. In the first instance, however, contracts only for part of the quantity may be placed on such firms, if their offers are technically acceptable, and they should be advised to get themselves registered with DGS & D. at the earliest.

(3) No capacity report should be asked in respect of firms who quote for ISI marked goods and submit proof that they are authorised to mark their products with ISI marking. Offers from such firms can be accepted if the same are otherwise suitable and technically acceptable.

(4) Where submission of tender samples by a given date is a specific condition of the Invitation to Tender, no capacity report should be called for in respect of such unregistered firms, who may fail to comply with this condition and such offers should be deemed as *prima facie* unacceptable even though they may be lower and may be falling in the zone of consideration.

(5) In respect of advertised tenders where it is proposed to place contract of value less than Rs. 10,000 and the firms concerned are registered for other stores, or in cases where stores conforming to specification have been offered for immediate delivery from stock, inspection reports may be dispensed with at the discretion of the Director of Supplies.

(6) The Inspectorates should submit capacity reports on unregistered firms in duplicate forwarding one copy to the concerned Purchase Officer and the other to the Registration Branch. In these reports they should also indicate other allied items for which the firm is considered capable to manufacture. All the capacity reports should be so centralised in the Registration Branch that the same are readily available for reference. Similar data should also be maintained by the Inspectorates.

(7) If it is intended to place an order of Rs. 5,000 or less on an unregistered firm, whose offer is otherwise technically and commercially acceptable, no capacity report on such firms need be called for but order should be placed subject to security deposit of 5 per cent. If any of such firms happen to be a SSI Unit, they may be asked to

furnish a competency certificate to consider waiver of the security deposit.

Sd/- M. M. PAL,
Deputy Director (CS-II).

STANDARD DISTRIBUTION

(On file No. CSIB/24 (3)/III/67.)

Copy to:—

IC-I Section. They may also issue suitable instructions to the Inspectorates.

Registration Section for information and necessary action with regard to para 2 of the office order.

ANNEXURE III

GOVERNMENT OF INDIA

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS (CO-ORDINATION SUPPLIES SECTION—4)

NEW DELHI

Office Order No. 8

Dated 1-1-1969.

SUBJECT.—*Capacity reports—calling of.*

Consolidated instructions on the above subject were circulated *vide* Office Order No. 18, dated 6th February, 1968. Since then Routine Note No. 6, dated 2nd March, 1968 has been issued on the subject.

2. A comprehensive Office Order incorporating all the instructions on the subject as current on 31st December, 1968 is reproduced below for the guidance of all concerned.

3. It has been observed that Capacity Reports are being called for indiscriminately by the Purchase Officers in respect of unregistered firms, thus throwing an unnecessary heavy burden on the Inspectorate and resulting in undue delays in the coverage of demands. Purchase Officers are, therefore advised to keep the following 'Do's' and 'Don'ts' in view in the matter of calling of capacity reports:—

'Do's'

(i) Lower offers from unregistered firms which may fall within the zone of consideration should be carefully examined and capacity reports should be asked for only in respect of such lower tenderers whose offers are considered technically acceptable. This will apply to firms who may not be SSI Units.

(ii) In respect of lower offers from unregistered SSI Units, it should first be examined whether the stores on demand is a simple item or a difficult item involving safety angle. In the former case, only a competency certificate from N.S.I.C. should be asked for in respect of such firms whose offers are technically acceptable and who fall in the zone of consideration. As the competency certificate also includes the capacity of the firms, it should be enough for placement of contracts on SSI Units, on receipt of the same in such cases. How-

ever, in the latter case i.e. tenders of difficult stores or of stores where safety factors are a consideration, capacity reports should be called for from our Inspectorates and no competency certificate at that stage asked for from NSIC.

(iii) If for any valid reasons it sometimes becomes necessary to call for a fresh report even on registered firms, in such cases the Inspectorate should be told of the reasons why a further report has been called for.

(iv) Where a sole-selling agent has quoted on behalf of an indigenous manufacturer and the manufacturer is not registered with us, the capacity of the manufacturer need only be asked for and the agent should be called upon to produce a sole-selling agreement with the manufacturers for the satisfaction of the Inspectorate, where considered necessary.

(v) Capacity reports as satisfactory are valid for one year only but if an unregistered firm has been awarded a contract on the basis of such a report and they have executed the same satisfactorily, no further report for the same stores need be asked for in their case and, if for some valid reasons, it is considered necessary to do so, the period of one year should be reckoned from the date of completion of last supplies.

(vi) If a capacity report is adverse, the same should not be reviewed in less than three months. But if the firm produces satisfactory evidence to indicate that they have removed the deficiencies/shortcomings in their capacity as observed earlier, there should be no objection in undertaking a review in such genuine cases even earlier than three months.

(vii) Capacity reports on all the unregistered firms, whose offers may be technically acceptable and may be in the zone of consideration, should be obtained simultaneously and not piecemeal. Full particulars of the stores required and as offered by the firm(s) should be furnished to the Inspectorate and where capacity reports on more than one firm are called for simultaneously, as many copies of Schedule to Tender and drawings/specifications as the number of firms on whom reports are required, should be sent to the Inspectorate.

(viii) Cases where firms registered for some other stores have quoted and the stores on tender is allied or less difficult/complicated, than the stores for which they are already registered, no capacity report in such cases need be called for, subject to confirmation from the Inspection Wing.

(ix) Requests for Capacity/Capability verification of unregistered firms to the Inspector should be accompanied by the performance and equipment statements that are furnished by the tenderer as per clause 10 of the annexure to the Schedule to tender (form DGS & D-100C), alongwith other necessary papers/documents, to avoid unnecessary correspondence and delay in furnishing the report.

'Don'ts'

(i) No security deposit should be asked for from SSI Units which are not registered with the DGS & D, but whose capacity may have been reported as satisfactory by our Inspectorate, provided NSIC confirms that the firm is registered with them.

(ii) No capacity report should be called for in respect of firms either recommended by the DGTD or borne on the list of DGTD as scheduled industries. In the first instance, however, contracts only for part of the quantity may be placed on such firms, if their offers are technically acceptable, and they should be advised to get themselves registered with DGS & D at the earliest.

(iii) No capacity report should be asked in respect of firms who quote for ISI marked goods and submit proof that they are authorised to mark their products with ISI marking. Offers from such firms can be accepted if the same are otherwise suitable and technically acceptable.

(iv) Where submission of tender samples by a given date is a specific condition of the Invitation to Tender, no capacity report should be called for in respect of such unregistered firms, who may fail to comply with this condition and such offers should be deemed as *prima facie* unacceptable even though they may be lower and may be falling in the zone of consideration.

(v) In respect of advertised tenders where it is proposed to place contract of value less than Rs. 10,000 and the firms concerned are registered for other stores, or in cases where stores conforming to specification have been offered for immediately delivery from stock, inspection reports may be dispensed with at the discretion of the Director of Supplies.

(vi) No capacity reports should be called for the items in the excepted category a list of which is enclosed as Appendix I as inspection of these items does not come under the purview of DDG(I).

4. The Inspectorates should submit capacity reports on unregistered firms in duplicate forwarding one copy to the concerned purchase officer and the other to the Registration Branch. In these reports they should also indicate other allied items for which the firm is considered capable to manufacture. All the capacity reports should be so centralised in the Registration Branch that the same are readily available for reference. Similar data should also be maintained by the Inspectorates.

5. If it is intended to place an order of Rs. 5,000 or less on an unregistered firm, whose offer is otherwise technically and commercially acceptable, no capacity report on such firms need be called for but order should be placed subject to security deposit of 5 per cent. If any of such firms happen to be a SSI Unit, they may be asked to furnish a competency certificate to consider waiver of the security deposit.

6. In view of what is stated against item (ii) under 'Do's' in para 3 above, there should normally be no case where both the competency and capacity reports would be called. However, there may be some stray cases in which by mistake both the competency certificate and also the capacity report have been called for in respect of SSI Units registered with N.S.I.C. In such cases, it is necessary that the capacity report should be relied upon in preference to competency certificate.

7. In respect of firms which are not registered with D.G.S. & D. but are registered with the N.S.I.C. a Competency Certificate on the prescribed form would be obtained from the National Small Industries Corporation before orders are placed on them. As the competency certificate is a substitute for the Capacity only, prior to placement of orders on Small Scale Industries Units the other safeguards viz. Income Tax Clearance Certificate and bankers reports as prescribed in the office manual should also be obtained before placement of contracts on unregistered firms.

8. It is noticed that stockists who are not registered with us often quote against the tender enquiries issued by us. The following procedure should be observed in dealing with such tenders.

In case of indigenous stores we normally consider the quotations from the manufacturers or their sole Selling Agents. In case both the manufacturer and the agent are not registered, the capacity of the manufacturers would have to be verified before placement of the order. In case of quotations from agents|stockists they should also

be asked to produce the agreement with the manufacturer for the satisfaction of the Inspectorate where considered necessary.

9. D.D.G.(I) will be responsible for capacity verification of un-registered firms in respect of Defence Demands only in those cases where the inspection will be carried out by our Inspectorate. Where the responsibility for inspection of defence stores is that of Defence Inspection Organisation the work relating to capacity verification of the unregistered firm will also be done by them.

10. With a view to minimising the time lag in the receipt of Capacity Reports on un-registered firms, the requests for Capacity Reports on un-registered firms should be sent directly to the Assistant Inspecting Officer/Inspecting Officer/Dy. Director Inspection concerned in whose region the firm is situated, who will route the completed Capacity Reports through their Controlling Director/Countersigning authority. A copy of the Schedule to the tender enquiry should be simultaneously sent to the Controlling Director of Inspection of the Circle. A complete list of Regional Inspection Circles their Sub-Circles etc. is enclosed for ready reference (Appendix II).

Sd/- S. K. JOSHI,

STANDARD DISTRIBUTION. Dy. Director (CDN. Supplies II).

[CDN-4/24(3)/III/67].

Recommendation

"The Committee observe that, after the tender enquiry was issued in this case, the specifications of the stores were changed. However, confirmation from the tenderers that the stores conforming to the changed specifications would be free from chemical damage was not sought from the tenderers till two days before the tenders were due to expire. In consequence, a decision on the tender could not be taken before their validity expired, and the stores had ultimately to be purchased at an extra cost of Rs. 1.6 lakhs. The Committee would like Government to investigate the circumstances under confirmation on a vital point was sought from the tenderers so belatedly."

[Sl. No. 3 (Para 1.25) of Appendix VI to the 57th Report (Fourth Lok Sabha)].

Action Taken

The point raised by the Committee is with reference to the delay in asking the firms who had tendered for hanked dyed yarn to confirm that the supplies in hanked dyed yarn would be free from any chemical damage to the yarn. The matter has been examined from the vigilance angle and the position is as under:—

The amendment issued to the tender inquiry in respect of specifications, was quite clear and specific. Therefore, when tender did not specifically confirm that the jerseys manufactured from hanked dyed yarn would be without any chemical damage to the yarn, it was natural for the officials of the DGS&D to presume that that firm was not in a position to confirm this stipulation. In the circumstances, it was not necessary for the purchase officers in the DGS&D to make any proposal to the effect that a classification from the firms on this point should be obtained. The decision that a clarification on this point should be obtained from the firms that supplies in hanked dyed yarn would be without any chemical damages to the yarn, was taken by the Department of Supply after the Ministry of Finance (Supply Wing) had expressed a doubt as to whether the amendment to the tender inquiry had been received by all the quoting firms. In view of the above circumstances, there was no occasion for the officials of the Directorate General of Supplies and Disposals to obtain a clarification on this point at any earlier stage and no blame can be attached to any purchase officer in the Directorate General who handled this case.

[Ministry of Foreign Trade & Supply (Departt. of Supply) O.M. No. 12(42)/67-PI, Dated 16th July, 1969].

Recommendation

The Committee are unable to understand why the purchase officer sought to process offers which were not in conformity with tender conditions. As a result, a decision on the tenders got delayed, entailing an extra expenditure of Rs. 32,000. The Committee would like to impress on the Director General, Supplies and Disposals the need to draw up tender conditions with care and to ensure that in processing offers received, deviations from conditions drawn up are not allowed as far as possible.

[S. No. 4 (Para 1.28) of Appendix VI of the 57th Report (Fourth Lok Sabha)].

Action Taken

According to the Instructions contained in Office Order No. 91, dated 21st August, 1967 Appendix A, offers which do not conform to certain standard terms and conditions stipulated in the tender enquiry are to be ignored. It has since been decided that in the case of simple items of stores where there is adequate competition, the purchase officers should have the discretion summarily to reject offers which do not conform to specifications or which are at variance with the terms and conditions stipulated. Accordingly clauses 2 and 3 of Annexure to Tender (DGS&D-100C) have been revised *vide* Office Order No. 37, dated 4th January, 1969 Appendix B.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(42)/67-PI, Dated 22nd July, 1969].

APPENDIX A

**DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS
(CO-ORDINATION SUPPLIES IB)**

NEW DELHI

Dated 21st August, 1967.

OFFICE ORDER NO. 91.

SUBJECT:—*Instructions contained in the Invitations to tender—Non compliance by the tenderers.*

The standard forms of tender enquiry stipulate conditions as detailed below, non-compliance of which by a tenderer may render his tender liable to be ignored:—

- (a) Only in exceptional cases and for adequate reasons, will telegraphic or letter quotations be considered if they are received from firms who are on the approved list of registered suppliers maintained by this Directorate General and provided these telegraphic or letter quotations are complete in all respects with regard to price (item-wise prices where necessary), specifications, delivery and other particulars essential to enable a purchase decision to be taken and provided also that the quotations are confirmed within 3 days from the due date of receipt of tenders in the prescribed form.
- (b) Quotations without samples, where samples are specifically called for, are liable to be ignored.
- (c) Tenders/quotations in which transit insurance cost has been claimed as an extra, may not be considered.
- (d) The firms not borne on the approved list of contractors maintained by this office are required to submit along with their tenders:—
 - (i) Income Tax Clearance Certificate duly countersigned by the Income Tax Officer of the Circle concerned under the seal of his office.
 - (ii) Name and address of their banker.
 - (iii) Performance statement and Equipment statements in the prescribed forms.

Tenders not containing the above particulars are liable to be ignored.

2. It is noticed that many firms who quote against our tender enquiries do not comply with the requirements as indicated above. In such cases two courses of action open to purchase officers are either to ignore the offers altogether or to enter into post-tender correspondence with the tenderers to seek clarifications|confirmation etc. on one or other point(s). It has been noticed that the former course is seldom adopted and the purchase officers very often enter into correspondence with the firms seeking clarifications etc. As a result of this, the above mentioned stipulations in the tender enquiry lose their effectiveness. Needless to say that such a course of action also results in avoidable delays in the coverage of indents. The matter was, therefore, considered in consultation with the Deptt. of Supply and the Ministry of Finance and it has been decided that the procedure indicated below should be adopted by the purchase officers in such cases in future.

3. The course of action to be taken against each of the items mentioned in para 1 above is indicated below:—

- (a) The provisions in the Invitation to tender regarding treatment of telegraphic|letter quotations received from Registered Firms should be strictly adhered to. Instructions already exist in O.O. No. 10 dated 22nd January 1969 to the effect that in case the telegraphic quotations incomplete and lacks essential particulars or if confirmation is not received within three days, it should be ordinarily ignored treating it as a 'Late Tender'.

In respect of tenders for non-ferrous metals against which offers are open only for a day or so, the telegraphic quotations received from registered firms may be considered and orders placed if they contain all the essential particulars as stated above and if the accredited representatives of such firms present at the opening of the tenders confirm the authenticity thereof.

Letter|telegraphic quotation received from an unregistered firm should not ordinarily be admitted for consideration even though these may be complete in all essential details and confirmed within three days of the date of opening. But for ignoring such offers only on this account, approval of an officer not below the rank of DDG will be necessary.

- (b) Instructions already exist in Routine Note No. 47 dated 21st December, 1966 to the effect that in cases where firms are required to have the samples approved by the inspectorate, the tender enquiry should invariably indicate a definite date by which and the authority to whom the tender sample|testing fee should be sent. In such cases the firms who fail to submit the samples and/or deposit the testing fee by the date specified, should ordinarily be ignored straightaway and reasons therefor recorded on the file. These instructions, however, permit the purchase officers to use their discretion individual cases on merits. But the discretion could be exercised only with the approval of an officer not below the rank of Director of Supplies and care should be taken to see that the discretion is not exercised in a manner that would create a general practice amongst the tenderers to submit tender samples after the specified date. It has now been decided that in the event the difference between the lowest prima-facie acceptable quotation of the firm who fails to submit tender sample|testing fee by the specified date and that of the next best acceptable offer being small, say upto 10 per cent or so, no opportunity should normally be given to the defaulter by way of extension of time to submit sample|deposit testing fee after the opening of the tenders and his quotation may be ignored.

It may also be noted that in cases where tender samples are proposed to be called for, sufficient time—at least 6 clear weeks—should be allowed to the tenderers to submit their quotations. This is necessary because at times manufacture of a prototype sample involves designing of dies and special tools, procurement of special raw materials etc. and adequate time should, therefore, be made available for small manufacturers to participate effectively in such tender enquiries.

- (c) In cases where firms refuse to accept the transit risk clause, their quotations should be evaluated by adding 1 per cent of the price (assuming that 1 per cent would be the insurance charges) in regard to the purchase of all general stores (except fragile and perishable goods) and such quotations should normally be ignored only if they are not competitive after the addition of the insurance charges as stated above. It may also be mentioned here that specific powers have been delegated to the purchase

officers for waiver of the transit risk clause in cases where firms refuse to accept the clause and it is considered necessary to place orders on such firms.

- (d) It is considered that provisions as indicated in para 1(d) should be strictly enforced except that an extension of time may be allowed for submission of an income tax clearance certificate if an offer received from an unregistered firm is otherwise complete and acceptable in all respects.

All Purchase Officers are requested to note the above instructions.

Sd.- M. M. PAL,

Dy. Director (Cdn. Supplies I)

Standard Distribution.

(On File No. CSIB|29(5)|III|67).

Copy to:—Deptt. of Supply, New Delhi. Ref. their U.O. No. 7923PI|67
dated 8th August, 1967.

APPENDIX B

DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS (CO-ORDINATION SUPPLIES I)

NEW DELHI

OFFICE ORDER NO. 37.

Dated 4-1-1969.

SUBJECT:—*Expeditious coverage of demands for simple items having adequate competition.*

It has been decided that in order to eliminate delay and ensure expeditious coverage of demands Directorate General of Supplies & Disposals should have the discretion to summarily reject tenders in case of simple items having complete and unambiguous specifications and where there is adequate competition if the tenders do not conform to specifications or are in variance with the terms and conditions stipulated by the Directorate General of Supplies & Disposals in the invitation to tender. Accordingly it was decided to revise clauses 2 and 3 of the Annexure to Schedule to tender (Form DGS&D-100C) for incorporation in the limited tender enquiry for simple items. The revised clauses 2 & 3 duly vetted by the Min. of Law are as under:--

Clause 2—Conditions of Contract.

Tendering firms would be well advised to quote on the basis of the standard conditions referred to in para 1 of the Invitation to Tender and Instructions Tenderers. However, if the tendering firms stipulate any terms and conditions different from or varying from the standard conditions of contract, they should specifically state so in the body of their tender but it should be clearly understood that such tenders run the risk of being summarily ignored.

Clause 3—Deviation from specification.

It is in the interest of the tenderers to study the Specifications, drawings etc., specified in the tender Schedule thoroughly before quoting. It should be clearly understood that tenders in which the tenderer fails to confirm that the stores either conform to the tender specifications in all respects, including the minor details, and also fails to clearly specify deviations, if any, from the same, would be summarily ignored.

2. Purchase Directorates while inviting limited tender enquiries in future for simple items should incorporate the above revised

clauses in the Annexure to Schedule to Tender (Form DGS&D-100C). List of simple items as has been circulated under Office Order No. 112 dated 25-8-1968 as modified by O.O. No. 123 dated 18-10-68 may be referred to for guidance for this purpose.

Sd/- S. K. JOSHI,
Dy. Director (Cdn. Supplies)

Standard Distribution.

On File No. CDN-1|29(6)|II|67.

Recommendation

The Committee regret to note that, due to delay on the part of the indenter in coming to a decision on the tender referred to him for acceptance, an extra expenditure of Rs. 25,000 was incurred: The Committee would like Government to ensure that decisions on tenders are taken within the period for which tenders are valid and that, where the Director General, Supplies and Disposals refers tenders to indentors for clearance before acceptance, the matter is promptly followed up.

[S. No. 5 (Para 1.30) of Appendix VI to the 57th Report (4th Lok Sabha).]

Action Taken

Instruction already exist *vide* Routine Note No. 9 dated 31-1-67 (copy enclosed) that when tenders are referred to the indentors they should be accompanied by a self-contained note indicating clearly the points on which the comments of the indentors are sought. A target date for reply is also required to be given. A suitable clause in the communication to the indentors has also been prescribed wherein the validity period of the tender is indicated and the indenter is pointedly told that in case his reply is not received by the target date, responsibility for placement of order at higher prices, if any, will rest on him. Instructions also exist that decisions on tenders should be taken within the original validity period and extensions should be granted only in cases where this is considered inescapable. These instructions have been reiterated *vide* Routine No. 3 dated 13-2-1969 (copy enclosed).

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(26)67-PI dated 28-6-1969.]

GOVERNMENT OF INDIA

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS CO-
ORDINATION SUPPLIES SECTION IB, NEW DELHI

ROUTINE NOTE NO. 9

Dated 31-1-67.

SUBJECT:—*Tender Reference to indentors.*

Reference:—Para 144 of the Manual of Office Procedure for Supplies, Inspection & Disposals.

(2) Memo No. CSID|29(10)|III|64 dated 23-2-65 and 28-8-65.

(3) Routine Note No. 41 dated 17-9-65.

According to the instructions contained in the references cited above tenders received in response to enquiries issued by this office are not to be ordinarily referred to the indentors even if an indentor has asked to see them before order is placed. Consultation with the indentors may, however, become necessary for special reasons in case of stores of specialised nature (and NOT in case of common user items). References to the indentors in such cases may be made only after consulting the Inspection Wing on technical assessment of the offers. The Purchase Officer should examine the tenders carefully and avoid references to the indentors as far as possible. The following are the broad categories of cases where tenders may have to be referred to the indentors:—

- (i) Stores of specialised nature and scientific equipment.
- (ii) Where none of the offers received are strictly in conformity with the specifications.
- (iii) Stores of which technical scrutiny rest with D.G. Shipping and other indentors.
- (iv) Where suitable indigenous alternatives are offered to save foreign exchange.
- (v) Where items are covered by special procedures which require reference to the indentor e.g. Earthmoving Equipment, Power Plant Equipment etc. dealt with by Project Directorate.

Prior approval of DDG|DG is required to be taken before tenders are referred to the indentors. In case of Regional Offices the prior approval of the head of the Regional Office has to be obtained.

2. In cases where tenders are referred to the indentors, they should be accompanied by a self-contained note giving the specific recommendations of this office as also comments on technical assessment of the offers. The note should also indicate clearly the points on which the comments of the indentors are sought.

3. In all cases where tenders are referred to the indentors a target date should be given for reply. The following clause should be invariably incorporated at the end of all such communications:—

“Please note that tenders are valid for acceptance upto..... (date). You are requested to ensure that your reply to this letter is sent by (date) positively. You will appreciate that the entire responsibility due to delay in reply beyond the target date which may result in payment of higher prices, will rest with you. Please ensure that your reply reaches by the stipulated date indicated above.”

Care should be taken to see that a reasonable period is given in fixing the target date for reply *prima-facie* acceptable including tenders of these firms whose capacities are reported adversely are not referred at all.

Sd/- M. M. PAL,
Dy. Director (CDN. Supplies II)

Standard Distribution.

(On File No. CSID|29(10)|III|64).

DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS
(CDN-1 SECTION) NEW DELHI

ROUTINE NOTE NO. 3

Dated 13-2-69.

SUBJECT:—Tenders— Decision within the validity period.

Attention of all Purchase Officers is invited to instructions contained in Office Order No. 102 dated 12-9-66 stressing the necessity to take the decisions on tenders within the validity period and also the procedure for submission of cases for extension of the validity period where it is considered inescapable.

It is observed that the instructions are not being strictly followed by the Purchase Officers and as tenders are not being decided in a large number of cases within the original validity period, the lower offers available are sometimes withdrawn resulting in avoidable extra expenditure.

It is once again impressed on all the purchase officers that the decisions on tenders should be taken within the validity period. In cases where the extension of the validity period is considered inescapable, the procedure outlined in paragraphs 4 and 5 of Office Order No. 102 dated 12-9-66 should be strictly followed. The proposal for the extension of the validity period should explain the necessity for such an extension stating why it was not possible to take the decision within the validity period. The authority competent to sanction the extension of the validity period should scrutinise the proposal thoroughly and satisfy himself that the extension is absolutely necessary. The procedure outlined in para 6 of Office Order No. 102 dated 12-9-66 should be followed in cases where the competent authority considers that the extension of the validity period was avoidable.

Sd/- M. M. PAL,
Dy. Director (Cdn. Supplies).

Standard Distribution.

(On file CDN-1/CSIB/29(31)/II).

Recommendation

The Committee notice that confirmation sought from the indenter on the acceptability of certain terms offered by a tenderer was received by the Director General, Supplies and Disposals before the tenders expired but that, owing to internal delays, the communication failed to reach the dealing officer in time.

[S. No. 6(Para 1.33) of Appendix VI to the 57th Report (Fourth Lok Sabha)].

Recommendation

The Committee trust that action will be taken by Government to ensure that lapses of this type do not recur.

[S. No. 6 (Para 1.34) of Appendix VI to the 57th Report (Fourth Lok Sabha)].

Action Taken

In order to ensure that lapses of this type do not recur, suitable instructions have already been issued *vide* DGS&D (O&M Division's) Office Memorandum No. 3(1)|68-O&M, dated 29-8-68 (copy enclosed).

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(9)|67-PI dated 19-7-1969].

No. 3(1)|68-O&M

GOVERNMENT OF INDIA

DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS

(O&M Division)

New Delhi, the 29th August, 1968

OFFICE MEMO

SUBJECT:—*Perusal and prompt diarising of dak and proper maintenance of Section Diary.*

A case has come to notice where an important receipt relating to pre-A./T case was shuttled from one Section to another and reached the Section concerned after an interval of ten days. Moreover, there was no proper indication on the receipt of the various Sections which transferred the same to another Section nor did it bear any diary number of the Sections through which it moved. This resulted not only inconvenience and delay in the prompt disposal of the receipt but also loss to the State inasmuch as the contract could not be finalised at the original quoted rates. The Department of Supply have taken a serious view of this lapse on the part of the officers concerned.

2. Attention is invited in this connection to O&M Division Memo No. 3(7)|65-O&M dated the 21st August, 1965 (copy attached for ready reference), wherein it has been stipulated that receipts transferred from one Section to another should be duly entered in the Section Diary and it is the responsibility of the Assistant Director|Section Officer incharge of the Section to ensure that the Section Diary is maintained in the proper proforma and all the columns therein are completed by the diarist. It has also been laid down therein that while marking the dak to the dealing assistant, the name of the individual assistant should be clearly indicated on the receipt by the officer incharge of the Section and not the group number. The receipts received in the Section should be diarised in the Section Diary by the diarist on the same day.

3. Orders relating to perusal of dak were also issued in O&M Division Memo No. 7(4)|68-O&M dated 14th September, 1967.

These orders are reproduced below for guidance of all concerned.

“Perusal of dak—The Section Officer/Assistant Director in-charge of the Unit/Section and other officers are expected to peruse the incoming dak daily. They should give directions wherever necessary, as to the line of action which they would like office/junior officers to take. When an officer proposes to deal with a receipt himself, he should ask for the file to be put up to him with relevant papers without any noting. Receipts on which no special instructions are given by an officer who peruses the dak, will be initialled by him in token of his having seen them. Receipts which in the opinion of an officer are important enough to be seen by higher officers at the dak stage or on which he desires their instructions, will be sent to the higher officers accordingly.”

4. All concerned are requested to ensure strict compliance of the instructions referred to above.

Sd/-

R. K. SINGHAL,
Director (O&M & CND)

Standard Distribution

(Vigilance Section—Their file No. Case Study/85-IV/68 refers)

DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS
JEEVAN TARA BUILDING PARLIAMENT STREET,
NEW DELHI-1.

MEMORANDUM

No. 3(7)/65-O&M

Dated 21st August, 1965

SUBJECT:—Marking of Dak-Diarising of Receipts—Proper maintenance of Section Diary.

Instructions already exist vide this Unit Circular No. 3(7)63-O&M dated 26th August, 1964 and Memo. No. 3(7)/65-O&M dated 3rd, July 1965 that Sections should indicate serial numbers given on the receipts by Section A-13 along with the running serial number in Section Diary. The date of final disposal of the receipt file No. and date of issue of letter should invariably be shown in relevant column of Diary Register maintained in the Sections.

Physical verifications of some of the Diary Registers has revealed that the said instructions are not adhered to by all sections

and proforma of section diary has not been uniformly adopted. In order to maintain uniformity Section Diary should be maintained by the Sections in the proforma appended below:—

Sl. No.	No. & date of document No. date	From whom	Brief subject	Asstt. to whom marked	File No.	Date of final disposal & Sl. No.	Remarks	
1	2	3	4	5	6	7.	8	9

Diary Registers may be obtained from Section A-11 if available with them otherwise the prescribed columns be drawn in another register.

It has also been noticed that Section Officers while marking the dak do not indicate, on the receipt, the name of Asstt. Clerk, but mark the Group No. to which the receipt relates. Consequently Group No. is indicated against the receipt diarised in the Section Diary instead of the name of Assistant under the Column 'Asst. to whom marked'. Thus in case of loss of a particular letter it becomes difficult to fix the responsibility on the individual.

Section Officers Asstt. Director Incharges are requested that while marking dak to the dealing Asstts. the name of the individual Asstt. should be clearly indicated on the receipt and the practice of marking Group No. should be stopped forthwith. They will also check up from time to time that the name of the dealing Asstt. and not the Group Number is indicated against each receipt diarised in the Section Diary. It should also be ensured that receipts transferred from one Assistant to another or from one section to another are duly entered in Diary Register.

It is the responsibility of the Section Officer Incharge of Section to get the Section Diary maintained in the proper proforma and all the Columns therein are completed by the Diarist.

Non-compliance of the above instructions will be viewed seriously.

Sd -

S. S. L. ROHATGI,
O&M Officer,

for Director General of Supplies & Disposals.

All Sections at Headquarters.

Copy to:—

A-11—It is requested Section Diary Register be got prepared in the proforma stated in this Memo at the earliest.

Recommendation

The Committee note that Government incurred an extra expenditure of Rs. 6.34 lakhs on the purchase of certain trailers due to default by a firm on whom the orders were originally placed. The Committee also note that the firm was not registered with the Directorate General of Supplies and Disposals for the supply of this item. They would like Government to investigate whether the orders were placed with the firm after ascertaining before hand whether the firm had the requisite capacity to make the supplies as required.

[S. No. 7 (Para 1.41) of Appendix VI to 57th Report (4th Lok Sabha)].

Action Taken

The order was placed after obtaining the requisite capacity report from the Director of Vehicles, Ministry of Defence (CGIP). This report which is dated 15th July, 1963 indicated:—

That the Premises of M/s. Indian Machinery Stores (P) Ltd., Patna had been inspected and it was considered that the firm was capable of manufacturing 60 trailers per month; and

That the firm was getting their wheel equipment from Dunlops. This wheel equipment was meant for animal driven vehicle and would not suit Army requirements. Unless the firm could provide the Wheel equipment to suit the trailers towed by vehicles, placing of orders on them was not recommended.

Orders were placed on 9th August, 1963 only after the firm had confirmed on 24th July, 1963 that they would remove the deficiencies and manufacture the trailers as per specifications.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12 (29) 67-PI. dated 31st May, 1969].

Further Information

MINISTRY OF SUPPLY

(i) Please indicate how the Director of Vehicles satisfied himself about the capacity of the firm.

Reply

The reference to the Director of Vehicles is to Director of Inspection (Vehicles), Ministry of Defence. The Ministry of Defence are being asked to furnish a reply to this point.

(ii) Was an Inspection of this firm conducted in this connection?

Reply

Reply to this point also pertains to the Ministry of Defence. It may, however, be mentioned that the Director of Inspection (Vehicles), Ministry of Defence, in his capacity report had stated as follows:—

“Premises of M/s. Indian Machinery Stores (P) Ltd., Patna has been inspected.....”.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12 (29)/67-PIII, dated 1-12-1969].

Recommendation

The Committee also note from the information furnished to the Department by the Registrar of Companies that the firm have failed to file their balance sheets for the last two years with the Registrar of Companies, who has taken suitable proceedings in the matter. A scrutiny of the last balance sheet filed by them for the year ending 31st August, 1966 shows that out of their assets totalling Rs. 17.48 lakhs, as much as Rs. 13.94 lakhs are made up of loans and advances. The Committee would like Government carefully to assess in the light of these factors the prospects of recovery of amounts which might become payable by the firm .

[Sl. No. 7, (Para 1.43) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

DGS & D have received a report dated 30th January, 1969 from the District Magistrate, Patna, which is reproduced as under:—

“With reference to your letter No. 1576 dated 2nd November, 1968 on the subject noted above, I am to say that the matter was referred to C.I. Sadar, Patna, for enquiry. He has submitted his enquiry report from which it appears that India Machinery has got landed property in village Kumhrar, P.S. Sultangunj, Patna bearing Tauzi No. 26. Khata No. 42, 200, 64, 70, 28, 32, 200, 205 and 23, plot No. 724, 703, 723, 722, 725, 711, 721, 839, 840, 841, 842; 719; and 720 areas 0.12 decimal, 0.09½, 0.14, 0.10, 0.15, 0.12, 0.10, 0.10, 0.24, 0.21, 0.18, 0.26 and 0.24 decimal (total area 2.-034).

The financial position of the firm is very sound. As regards moveable property, the store has got full machines and tools in its Exhibition Road Office as well as in workshop, which is at Kumhrar. This is for favour of information and necessary action".

The procedure for obtaining the solvency report of defaulting suppliers for initiating litigation/arbitration proceedings has been received by Office Order No. 51 dated 26th March, 1969 (Annexure A). According to this Officer Order, following reports have been obtained:—

- (1) The Punjab National Bank have reported that the firm is a Private Limited Co., with Shri Jagnath Singh as Managing Director and that the company is maintaining a well conducted current account with them.
- (2) The details of current assets and loans and advances as shown in the latest Balance Sheet as on 31st August, 1967, have been reported by the Registrar of Companies, Patna and these are as follows:—

Current Assets	Rs.	4,081.95
Stock in trade	Rs.	10,57,426.24
Sundry Debtors exceeding six months	Rs.	4,19,234.85
Sundry Debtors within six months	Rs.	1,57,305.31
Cash & Bank Balance	Rs.	6,214.63
Loans & Advances	Rs.	18,256.27
Security deposits	Rs.	48,410.00
Income Tax suspense Account	Rs.	44,876.03
	TOTAL	Rs. 17,55,835.28

The Reports from Income Tax Commissioner and Wealth Tax Officer have not so far been received. The firm's other bankers, the Bank of Bihar, Patna, have not replied so far despite two reminders. The prospects of recovery, nevertheless, seem to be bright.

[Ministry of Foreign Trade and Supply (Deptt. of Supply) O.M. No. 12(29)/67-PI, dated 31-5-1969].

Recommendation

The Committee observe from the information furnished by the Department that the existing procedure for the registration of firms

provides for their financial standing being verified at the time of registration with reference to Bank reports, Income tax clearance certificates and the profit and loss accounts for three years. The Committee understand that a review of the position is thereafter carried out triennially. Experience in this case suggests that it might be of advantage for the Director General, Supplies and Disposals to call for the audited accounts of all registered suppliers annually, so that suppliers who have defaulted in their statutory obligations of filing their accounts under the provision of Company Law, may not qualify for orders from Government.

[Sl. No. 7 (Para 1.44) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

The period of registration has now been extended to 5 years while considering initial registration/renewal of registration, the annual accounts, i.e. profit and loss accounts and the balance sheets are properly scrutinised and it is only after the DGS & D are fully satisfied about the financial standing of the firm as exhibited in the relevant annual accounts that the registration/renewal of registration is granted. In cases where the financial position of the firm is found to be not sound, registration is not allowed for the full term of 5 years but is provisionally allowed for a period of one or two years depending upon the magnitude of the excess of assets over liabilities.

Calling for the annual audited accounts of the registered suppliers will be helpful in finding out their financial standing from year to year. DGS & D cannot, however, appropriately undertake the responsibility of ensuring that there would be no business dealings with the suppliers who have defaulted in their statutory obligations of filing their accounts under the provision of the Company Law, since this would mean that even a minor infringement of the provisions of Company Law would disqualify the supplier from obtaining Government contracts. This in effect, would narrow down the scope of making purchases on a competitive basis and thus would not be in the public interest. Further, undertaking the work of calling for annual audited accounts and their examination, would need staff adjustments. The matter is under consideration. The Public Accounts Committee will be informed further in due course.

[Ministry of Foreign Trade and Supply (Deptt. of Supply) O.M. No. 12(29)/67-PI, Dated 31-5-1969].

ANNEXURE A

**DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS
(COORDINATION SECTION-4)**

NEW DELHI-1

Office Order No. 51

Dated 26-3-1969.

SUBJECT:—*Procedure to be followed when DGS&D proposes to refer cases to arbitration.*

In accordance with the instructions laid down in the Office Order No. 116 dated 30th October, 1967 in the case of Government claims where the Directorate General contemplates taking recourse to arbitration, the Supplies or Commodity Directorates are required first to obtain a reliable report about the financial standing of the party and the prospects of recovery of the amount claimed and they have to sign a certificate that they are satisfied that recovery is possible. For ascertaining the financial position of the firm the Directorate concerned have to make a reference to the concerned District Magistrate or the Commissioner of Police.

As a result of recommendations of the Public Accounts Committee it has now been decided that for ascertaining the financial stability of the firm before initiating litigation/arbitration proceedings the following reports should be obtained instead of the report from the District Magistrate.

1. Report from the bankers who originally reported on the financial status of the firm.
2. Report from the Income-tax Officer whether the firm is prompt in paying income-tax, if not, whether they are in arrears.
3. Report from the Wealth Tax Officer regarding payment of wealth tax by its Directors.
4. Report from the Registrar of Companies as to the balance sheets showing profits and loss account of the concern.

Regarding the report at (3) above, the information may be obtained by addressing the communication at the level of the Commissioners of Income-tax as per list enclosed.

As regards the report at (4), this report may be obtained from the Registrars of Companies inviting their attention to the Department of Company Affairs letter No. 14/52/68-CL.V dated 4-1-1969 (copy enclosed).

The Directors of Supplies at Headquarters and in the Regional Offices are requested to bring the above decision to the notice of all concerned for strict compliance.

Sd/- S. K. JOSHI,
Dy. Director (CDN. Supplies II)

Standard Distribution

File No. CDN-4/CSIB/55(8)II.

Copy forwarded for information to:—

1. CDN Section-5 with reference to their Memo No. CDN-5/AP/2(109)/67, dated 27-7-1968.
2. The Deptt. of Company Affairs (Co. Low Board) with reference to their U.O. No. 14/52/68-CL.V dated 25-2-1969.
3. Ministry of Finance, Central Board of Direct Taxes, 'N' BL. New Delhi with reference to their U.O. No. 17/61/68-WT, dated 6-3-1969.
4. OSD (Litigation).

No. 14/52/68-CL.V

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY
AFFAIRS

DEPARTMENT OF COMPANY AFFAIRS
SHASTRI BHAVAN (5th Floor, 'A' Wing)
Dr. Rajendra Prasad Road,
New Delhi-1, 4-1-69.

To

All the Registrars of Companies.

SUBJECT:—Arbitration policy—Procedure to be followed when the DGS & D proposes to refer the cases to Arbitration—Report of the Registrar of Companies furnishing the balance sheet showing the profit and loss account of the concern.

Sir,

I am directed to say that under the existing instructions the DGS & D obtain before instituting legal proceedings against any party for

recovery of Government dues, certain reports about its financial standing etc. from the concerned District Magistrate and the Commissioner of Police etc. During a Discussion of the Audit Report (Civil) 1968, the members of the Public Accounts Committee suggested, *inter alia*, that a report from the Registrar of Companies should also be obtained along with the balance sheet and the profit and loss account of the company concerned before finally deciding about the institution of legal proceedings for recovery of Government dues. The Department are advised that Section 220(1) of the Companies Act, 1956 does not preclude the Registrar from allowing inspection or furnishing copies of Statements of Profit and Loss of the Private companies if the Registrar considers that that would result in public benefit or public interest. Accordingly, it has been decided that copies of such statements may be furnished to the DGS & D as and when a request under section 610 of the Companies Act, 1956 is made by that Directorate.

Yours faithfully,

Sd/- B. P. ROY,

Deputy Secretary to the Govt. of India.

List of Commissioners of Income-tax, their designations and postal Address.

- (1) Commissioner of Income-tax, Andhra Pradesh, Mehdi Manzil, 12th Road, Banjara Hills, Hyderabad-34.
- (2) C.I.T. Assam, Nagaland, Manipur & Tripura, Shillong.
- (3) C.I.T., Bihar, Patna.
- (4) C.I.T., Orissa, Bhubaneswar.
- (5) C.I.T., Bombay City-I, Aayakar Bhavan, Queen's Road, Bombay-1.
- (6) C.I.T., Bombay City-II, Aayakar Bhavan, Queen's Road, Bombay-1.
- (7) C.I.T., Bombay City-III, Aayakar Bhavan, Queen's Road, Bombay-1.
- (8) C.I.T., (Central) Bombay, Aayakar Bhavan, Queen's Road, Bombay-1.
- (9) C.I.T., Poona, 12, Connaught Road, Poona.
- (10) C.I.T., Delhi-I, Central Revenues Building, Mathura Road, New Delhi.

- (11) C.I.T., Delhi-II, Central Revenue Building, Mathura Road, New Delhi.
- (12) C.I.T., (Central) Delhi, Revenue Building, Mathura Road, New Delhi.
- (13) C.I.T., Rajasthan, Jaipur.
- (14) C.I.T., Gujarat-I, P. Box No. 211, Ahmedabad.
- (15) C.I.T., Gujarat-II, P. Box. No. 211, Ahmedabad.
- (16) C.I.T., Madhya Pradesh, Nagpur & Bhandara, Nagpur.
- (17) C.I.T., Kerala, Ernakulam (South), Cochin-16.
- (18) C.I.T., Mysore, Queen's Road, Bangalore.
- (19) C.I.T., Madras-I, 22, Nungambakkam High Road, Madras-34.
- (20) C.I.T., Madras-II, 22, Nungambakkam High Road, Madras-34.
- (21) C.I.T., (Central), Madras, 22, Nungambakkam High Road, Madras-34.
- (22) C.I.T., Punjab, Jammu & Kashmir & Himachal Pradesh, Haryana, Patiala.
- (23) C.I.T., Uttar Pradesh-I, L.B. No. 14, Lucknow.
- (24) C.I.T., Uttar Pradesh-II, Kanpur.
- (25) C.I.T., West Bengal-I, P-7, Chouringhee Square, Calcutta.
- (26) C.I.T., West Bengal-II, P-7, Chouringhee Square, Calcutta.
- (27) C.I.T., West Bengal-III, P-7, Chouringhee Square, Calcutta.
- (28) C.I.T., (Central), Calcutta, Hastings Street, Calcutta.

Recommendation

The Committee note that, as a result of delay on the part of the Department in issuing an import recommendation certificate to a supplier for the import of raw materials required for the manufacture of certain stores, the prices of those materials escalated and Government had to incur an extra expenditure of Rs. 3.15 lakhs. From the information furnished by the Department during evidence, the Committee note that procedures have been devised to ensure that import recommendation certificates are issued by the Director General, Supplies and Disposals, in time. Unfortunately, however, these procedures were not observed in this

case. The Committee trust that steps will be taken to enforce the existing procedures rigorously so that costly lapses of this nature do not incur.

[S. No. 9 Para 1.60 of Appendix VI) of the 57th Report (4th Lok Sabha) of the P.A.C.].

Action Taken

Instructions dated the 9th November, 1960 required that Import Recommendation Certification should be issued along with the contract. These instructions were reiterated in Office Order No. 88, dated the 2nd August, 1966 and more recently on the 7th April, 1969. Copies of the orders are enclosed.

[Ministry of Foreign Trade and Supply (Deptt. of Supply) O.M. No. 12(4)/67-PI, Dated 16-7-1969].

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS (COORDINATION SUPPLIES SECTION IA)

ROUTINE NOTE No. 42

Dated 9-11-1960

SUB:—*Import Trade Control Policy—issue of Import Recommendation Certificates.*

Attention of Supply Officers Sections is invited to Codn. Supplies Office Order No. 31 dt. 26-10-48 as amended from time to time which lays down that where a contract is placed for supply of stores against Govt. demands involving specific importation from abroad. Import Recommendation Certificate *should be issued along with the contract in the form prescribed thereunder.*

A case was brought to notice during the fifth meeting of the Regional Purchase Advisory Council (Southern Zone) held at Bangalore on 22-6-1960 wherein the Import Recommendation Certificate which should have been issued along with the contract was issued long after the issue of Acceptance of Tender resulting in much delay in the issue of Import Licence and consequential delay in supply of stores.

Supply Officers Sections are requested to strictly adhere to the instructions contained in the above mentioned Office Order and ensure that Import Recommendation Certificates are invariably issued along with the Acceptance of Tender.

Sd/- P. T. LALWANI,

Deputy Director (Co-ordination Disposals)

Standard Distribution

[On File No. CSIA 19(15) II].

**DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS
(CO-ORDINATION SUPPLIES SECTION IA)
NEW DELHI**

OFFICE ORDER NO. 88 Dated: 2-8-1966.

SUB: Import Trade Control Policy—Import Recommendation Certificates; Import Licences—measures for avoidance of delay in the issue of.

I. Instructions already exist that Import Recommendation Certificates should be issued along with the contracts.

II. The question of avoidance of delay in the issue of Import Recommendation Certificates and Import Licences has been examined by the Study Team and the Impowered Committee appointed by the late Ministry of Industry and Supply. They consequently it has been decided that:—

- (a) Import Recommendation Certificates should accompany the contracts. Where they cannot be sent along with the contracts, they should be issued within 48 hours.**
- (b) This time limit should be strictly enforced and adherence to it secured through the monthly control Chart circulated vide O.O. 21 of 22nd Feb. 66 and further modified vide memo. No. 13(7)/62-O&M dated 25-5-1966.**
- (c) Applications for the issue of Import Licences against Import Recommendation Certificates, where no list of goods are attached, should be submitted by the Firms direct to the Licencing authorities.**
- (d) Where list of goods are attached and require attestation, the applications should be submitted to the liaison Officer in the D.G.S.&D. (A.D. IS-3) instead of the Purchase Section. Contractors should be advised accordingly by Purchase Section. In such cases the Liaison Officer, on receipt of the application should immediately collect the relevant purchase file from the Purchase Officer concerned and forward the application within 24 hours of the receipt of file from the Purchase Officer to the Chief Controller of Imports and Exports. The Purchase Officer concerned should ensure that the purchase file along with the list of goods duly attested if made available to A.D. (IS-3) immediately.**
- (e) All Import Licences requiring revalidation, amendments, corrections etc. should also be sent to the Liaison Officer A.D.(IS-3) who should then taken expeditious action for**

getting the comments of the Purchase Section concerned. He should also be responsible for watching the expeditious disposal of such applications.

Purchase Sections, however, should also ensure that such documents I/LIRC. etc. referred to them by A.D. (IS-3) are returned to him within 3 days of their receipt.

- (f) To enable the Liaison Officer A.D.(IS-3) to take action where the issue of Import Licences has been delayed the contractor should be asked to give particulars of his application submitted to the Chief Controller of Imports and Exports in a slip in the form attached. This slip should be attached to the covering letter with which the Import Recommendation Certificate is sent. The firms should return these slips, duly filled in, within 15 days failing which a reminder should be sent to them which should be on standard printed reminder card, specimen enclosed.
- (g) Cases where Import Licences are immediately required i.e. against indents marked "Operational"/"Express"/"Immediate" should be specifically marked as such and brought to the notice of A.D. (IS-3) who will while forwarding the I.R.C. to the contractor advise him to apply for the Import Licence immediately and as soon as the application is made AD(IS-3) will immediately pursue with the CCIE's Office and apprise the Supplies Officers of the position. He will contact the officer concerned in the CCI&E's office on telephone or demi-officially if necessary. All correspondence (including reply) in this connection will be marked immediate.

All concerned are requested to follow the above instructions strictly.

Sd/- A. R. IYER,

Standard Distribution

Deputy Director (Cdn. Supplies)

(On file No. CSIA 19(15) II).

Slip to be attached to the letter with which the Import Recommendation Certificate is to be sent.

(Please return this slip duly filled in within 15 days)

I.R.C. No.

Dated

Received on

No. and date of application to the Chief Controller of Imports and Exports/Iron & Steel Controller for Import Licence.

Note: If application for import licence is not made within 15 days of the receipt of Import Recommendation Certificate the reason for delay should be stated.

Firm's name and Address.

To

The Director General of Supplies & Disposals,
IS-3 Section, Parliament Street,
New Delhi.

**DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS
(CO-ORDINATION SUPPLIES I), NEW DELHI**

Dt. 7-4-1969

ROUTINE NOTE NO. 19

SUB: *Import Trade Control Policy—Import recommendation Certificates/Import Licences—measures for avoidance of delay in the issue of.*

Ref. Office Order No. 88 dt. 2.8.1966.

Detailed instructions have been issued *vide* Office Order No. 88 dt. 2.8.1966 stipulating the measures to be taken for the avoidance of delay in the issue of the Import Recommendation Certificate should accompany the contracts.

In spite of the instructions referred to above it is observed that the Import Recommendation Certificate is not forwarded with the contracts thereby causing delay in the issue of import licences resulting in avoidable extra expenditure to Government. Attention of purchase officers is drawn to the above referred instructions and it should be ensured that these instructions are strictly forwarded along with the contracts.

Sd - S. K. JOSHI,
Dy. Director (Cdn. Supplies)

Standard Distribution.

(On File No. CDN-1/29(6)/III 67).

REMINDER FORM**DIRECTORATE GENERAL OF SUPPLIES AND
DISPOSALS**

To

M/S. _____

Sub: *This office A/T No. _____ dated _____ for the supply of _____ Application for Import Licence _____ Return of Slip (DGS&D No. _____) by contractors.*

Dear Sirs,

Please refer to the above quoted A/T and arrange to return slip (DGS&D No. _____) sent along with the A/T, on duly filled in, immediately, so as to enable this office to pursue the matter with the C.C.I. & E for expeditious disposal of your application for the grant of Import Licence.

This is however, without prejudice to all the rights of the Government under the contract.

Yours faithfully,

()

*Assistant Director of Supplies.
for Director General of Supplies and Disposals..*

C.C.:

1. Indenting Officer.
2. Consignee.
3. Progress Wing.

Recommendation

The Committee would like Government to evolve precise guidelines for the assessment of the comparative performance of the firm, so that decisions on this point are made as objective as possible.

[Sl. No. 10 (Para 1.73) of Appendix VI to the 57th Report (Fourth Lok Sabha)].

Action Taken

Detailed instructions for the assessment of firm's performance and maintenance of the performance cards have already been issued *vide* u.o. No. DP (D)/Gen/1/68-PS dt. 20/21-5-68, copy enclosed.

[Ministry of Foreign Trade and Supply (Deptt. of Supply) O.M. No. 12(43)/67-PI, dated 5-11-1969].

ANNEXURE II

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS
(PROGRESS DIRECTORATE)

Subject:—Maintenance of Performance Cards.

According to the existing practice, the performance of suppliers is classified by symbols 'A', 'B', 'C' etc. as described in column 6 of the Performance Card (Form DGS&D 48). In order to determine relative performance of the various firms, it has been decided to grade them as follows based on the classification given in column 6 of the Card:—

Classification	Performance	Corresponding Grading
A	Delivered in time	"Good"
B	Liquidated damages imposed and amount thereof.	(i) 'Satisfactory' if delay has not been for more than 6 months.
C	Stores accepted under Deviation.	(i) 'Satisfactory' if delivered in time. (ii) 'Fair' if delivered during extended period.
D	Heavy rejections in supplies offered.	"Unsatisfactory"
E	Stores re-purchased at firm's risk and account.	"Poor".

The above gradings shall be marked against each contract on the performance card by a rubber stamp under personal supervision of the Asstt. Director (Progress) incharge of the performance Group. Whenever a requisition is received from Purchase Directorates, the correct position will be indicated on the basis of this grading and such information should relate to the performance of the firm during the preceding two years on date. If a particular firm has no performance to their credit during the preceding two years, the quantity of the last performance should be indicated.

Asstt. Director (Progress) incharge of Performance Group will ensure that the work relating to marking of correct grading against each contract on the Performance Cards is taken up immediately and information to Purchase Directorates when called for is furnished in terms of the same in future.

A requisition for the required Rubber Stamps has been placed with the Admn. Br. (A-II) and the same will be passed on to Performance Card Group, as soon as they are received.

Sd/- V. SUBRAMANIAN,
Director Progress (Defence).

Asstt. Director Progress
Incharge, Performance Group

U.O. No. DP(D)|Genl|168-PS dt. 20.21.5.68.

PERFORMANCE CARD

Name of Contractor.....

A/T No. & la e	Broad category of stores	Total value	Contract delivery date	Final delivery date	Performance to be indicated in symbols given below	Other Remarks if any
					A. Delivered in time.	E. Stores supplied to specification.
					B. Supplies delayed due to reasons beyond supplier's control.	F. Stores accepted under deviation.
					C. Supplies delayed unreasonably.	G. Heavy rejections in supplies offered.
					D. Liquidated damages imposed and amount thereof.	H. Stores re-purchased at firm's risk and account.

Recommendation

The Committee note that 131 cases where payments were made to contractors on a provisional basis were awaiting finalisation as on 15th July, 1968. They hope that these will be speedily cleared, so that possible litigation with contractors is avoided as far as possible.

[S. No. 11 (Para 1.85) of Appendix VI of the 57th Report (4th Lok Sabha) of the P.A.C.].

Action Taken

Out of the 131 cases mentioned in the recommendation above, only-7 cases are pending finalisation as on 30th April, 1969.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 43 (26)/66—PI, dated 5-5-1969.]

Recommendation

The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil), 1968, relating to the Department of Supply. They expect that the Department will none-the-less take note of the discussions in the Committee and take such action as is found necessary.

[S. No. 14 (Para 3.1) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

The above recommendation of the Public Accounts Committee has been noted.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. PL—26(10)69, dated 26-7-1969.].

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF GOVERNMENT

Recommendation

The Committee regret to note that, due to a substantial modification of tender conditions communicated to tenderers nearly one and half months after the opening of tenders and twenty days before their offers were due to expire, and the inability of the Director General, Supplies and Disposals to have the capacity of one of the tendering firms "re-checked", a decision on the tenders could not be taken before their validity expired, with the result that Government had to incur an extra expenditure of Rs. 6.02 lakhs. The modification of the tender conditions was proposed in view of certain difficulties experienced in the supply of the item in the past. The Committee are unable to understand why this was not thought of even before the tender notice was issued. As regards the inability of the Director General, Supplies and Disposals to re-check the capacity of one of the tenderers, the Committee fail to comprehend why, before the tenders were considered, the Director General, Supplies and Disposals did not have a firm capacity report prepared, in accordance with the prescribed procedure.

[S. No. 2 (Para 1.21) of Appendix VI to the 57th Report (Fourth Lok Sabha).]

Action Taken

As regards the first point as to why the Director General, Supplies & Disposals did not think of the difficulties experienced in the supply of the item in the past before the tender notice was issued, it may be pointed out that the clause regarding pre-estimated damages in the tender enquiries had never been included in any previous tender enquiries for this item. The position of supply of raw hides had been generally satisfactory. This item, therefore, could not be categorised as one of the critical items. The supply position of raw hides (cow and buffalo) became difficult after the opening of the tender on 4th October, 1966 as a consequence of the country-wise agitation in the 1st week of November, 1966 for imposing a ban on cow slaughter.

2. With regard to the second point viz., why, before the tenders were considered, the DGS&D did not have firm capacity report prepared in accordance with the prescribed procedure, it may be stated that at the time the purchase proposals were framed on 20th October, 1966, a capacity report dated 19th March, 1966 on M/s. _____ against another tender recommending the firm for trial orders to the extent of Rs. 40,000 was available and the DGS&D had formulated their purchase proposals accordingly. On consideration of those proposals, however, it was decided to check back on the capacity and performance of that firm. Accordingly, a fresh reference was made on 16th November, 1966 to the Deputy Director of Inspection, Kanpur. An unfavourable report was received on 12th December, 1966 i.e., after the expiry of the initial validity of the offers on 5th December, 1966.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(13)67-PI, dated 18-6-1969.]

MINISTRY OF INDUSTRIAL DEVELOPMENT, INTERNAL
TRADE & COMPANY AFFAIRS (DEPTT. OF INDUSTRIAL
DEVELOPMENT)

Recommendation

1.55. The Committee feel that the delay that occurred in processing this transaction was avoidable. The indent for the stores received by the Director General, Supplies and Disposals was referred to the Director General, Technical Development on 15th April, 1966, as the stores were subject to control under the Scarce Industrial Materials (Control) Order, 1965. In accordance with the procedure settled between these two organisations for allocation of stores governed by the Order, the Director General, Technical Development was required on a reference from the Director General, Supplies and Disposals, specifying the particulars of requirements for the stores, to issue a permit in favour of one of the approved stockists. The Director General, Supplies and Disposals, was thereafter to place a contract with the stockist. The Committee are unable to understand why the Director General, Technical Development failed to issue a permit after receipt of the reference from the Director General, Supplies and Disposals on 15th April, 1966. Instead, he addressed the Director General Supplies & Disposals on 18th May, 1966, nearly a month after receipt of his reference, for confirmation of his requirements. Even after the confirmation was received on 23rd May, 1966, no action was taken till 10th June, 1966, when in reply to a reminder, he informed the Director General, Supplies &

Disposals that the Control Order had been repealed. In consequence the stores had to be purchased from the market at prices much above the controlled price previously in force. The Committee would like the Government to assess the exact loss sustained and to fix responsibility therefor.

[S. No. 8 (Para. 1.55) of Appendix VI to 57th Report (4th Lok Sabha).]

Action Taken

The case in point has been carefully studied in consultation with the Director General, Technical Development and the Director General, Supplies & Disposals.

2. It is true that the information asked for by the D.G.S.&D. on 15th April, 1966 regarding the names of firms which had been allocated High Purity Zinc was furnished only on 18th May, 1966. In furnishing this information, the D.G.T.D. had asked D.G.S.&D. to intimate within 15 days whether there was any likely demand to 'Zamak' against the orders of Defence and other priority indentors. The crucial reference was the one dated 23rd May, 1966 from the D.G.S.&D. in which he requested the D.G.T.D. to take immediate action to make available the required quantity from any of the five licencees and to intimate the name of the firms and the prices at which they were to supply the alloy. It is true that the D.G.T.D. did not take action on this reference till 10th June, 1966 when he received a reminder from the D.G.S.&D. By that time, however, the Scarce Industrial Materials (Control) Order 1965, had been repealed, as from 7th June, 1966 and as such the D.G.T.D. had no authority to comply with the requirements.

3. The delay on the part of the Controller's Organisation in the DGTD is not dealing with the reference received from the DGS&D on 24th May, 1966 till the 10th June, 1966 has been investigated. The study has revealed that the reference from the DGS&D was not put up to the Controller because the regular dealing hand had proceeded on long leave and there had been some confusion as to which particular person should be handling that reference. The explanation of the Assistant to whom the reference was eventually marked has been called for and he will be dealt with in the manner most justifiable after considering the explanation that would be received from him.

4. It may, however, be pointed out here that even if the DGS&D's reference dated 23rd May, 1966 had been immediately put up to the Controller, it is understood from the DGTD that the Controller would have found it necessary to ask the DGS&D for certain additional information as the DGS&D's reference dated 23rd May, 1966 did not contain complete particulars that would have been necessary; furthermore, the DGS&D's file which had been referred to the DGTD earlier on 18th April, 1966, was no longer available to the Controller as it had been returned to the DGS&D on 18th May, 1966.

5. The one question that now remains to be examined is whether the extra expenditure of Rs. 2.18 lakhs incurred on the purchase of the material in the open market after the repeal of the Control Order had been occasioned because of any deliberate act of commission or omission on the part of any one individual or a set of individuals acting in collusion with each other. As has been stated earlier, the delay in acting on the reference dated 23rd May, 1966 has been attributable to an inadvertent circumstance in the staffing situation at that point of time in the D.G.T.D. and the non-submission of the case by the temporary hand during the period of absence of the regular dealing hand, which is already being investigated into. Another relevant factor here is that as far as was made known to the D.G.T.D. at that time, the delivery period was between September, 1966 and February, 1967 and any permit that might have been issued in May 1966 could not have been valid as the validity period of a permit under the Control Order had been stipulated to be 60 days. The repeal of the Control Order with effect from 7th June, 1966 again was a circumstance which the D.G.T.D. or for that matter the D.G.S.&D. could not anticipate so much in advance as to give any one of the dealing officers or members of staff an opportunity to deliberately delay the question of issue of a permit.

Yet another aspect which would be relevant here is that even if a permit had been issued prior to the date of the repeal of the Central Order of 7th June, 1966 it would be debatable in Law as to whether the validity of such a permit could have continued after the repeal of the Control Order on 7th June, 1966 for enabling deliveries to be made from September, 1966 to February, 1967.

6. In the light of the analysis that has been made, while it may be conceded that there has been some delay in DGTD in dealing with the reference received from the DGS&D, it stands to reason that the circumstances which ultimately resulted in the extra expenditure of Rs. 2.18 lakhs incurred on the purchase of the material

in the open market after the repeal of the Control Order were not within the control of anyone individual or a set of individuals colluding to take any advantage either in the DGTD or in the DGS&D nor was there any deliberate act of commission or omission on the part of anyone to lead to a pecuniary loss to the Government. It is, therefore, our considered view that no further action would be called for in this case beyond that has been already initiated in regard to the temporary dealing hand who was holding charge of the work normally attended to by the regular hand who had proceeded on long leave.

[Department of Industrial Development OM No. TD-29(52)/67, dated 15-10-1969].

Further Information

DEPARTMENT OF SUPPLY

Please State:

- (i) Whether an essentiality certificate was not issued in this case by DGS&D to DGTD (as stated in para 4 of the Action Taken Note shown in Annexure II).

Reply

The form prescribed for under the Control Order shown as Annexure 'D' and referred to in para 7 of the instructions regarding procedure to be followed, was not applicable to the DGS&D as in accordance with the decision taken at the meeting held on 31st January, 1966, at which the drill was laid down, DGS&D were required to furnish the indenter's name, quantity required and other particulars to the Controller, Scarce Industrial Materials to enable him to issue a permit in favour of a firm or agency. All these particulars were available in the reference made on 15th April, 1966.

- (ii) Whether no indication was given of the dates by which 'zamak alloy' was required when a reference was made by DGS&D to DGTD.

Reply

When a reference was made to the DGTD on 15th April, 1966, it was stated in the note that the requirements for the two indents were 244.05 M/Tons and that delivery was required from September, 1966 to February, 1967. Both the indents were placed on the file. The first indent was for 28.05 M/Tons, delivery against which was to be made by September, 1966. The second indent was for 216 M/Tons and delivery was to be made by February, 1967.

When the information asked for by the Controller in his note dated 19th May, 1966, was furnished on 23rd May, 1966, the following details were given:—

“The present requirement of DGOF of Die Casting Zinc Alloy is 244.05 M/Tons and these are the only requirements till February, 1967. I shall, therefore, be grateful if you will please take immediate action to make available the quantity.....”

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(29)/67-PIII, dated 1-12-1969.]

Further Information

Please clarify with reference to the position explained in para 5 of the note, whether a permit issued for sixty days could not have been subsequently extended.

Reply

The Scarce Industrial Materials (Control) Order, 1965 contained the following provision regarding the period of validity of permits issued under this order:—

Clause 4—Sub-clause (3)

“Every permit issued under this clause shall be in such form as may be prescribed by the Controller with the approval of the Central Government and shall be valid for a period of sixty days from the date of issue and may be renewed from time to time for such periods not exceeding sixty days at a time, as the Controller thinks fit”.

In the Procedure for obtaining permits from the Controller under Clause 4 of the “Scarce Industrial Materials (Control) Order, 1965, dated 14th September, 1965” it was, *inter-alia* laid down as under:—

“Para 8. Every permit issued by the Controller will be valid only for SIXTY days from the date of its issue. Although there is a provision for extension of this validity period, only if submitted well within its validity period, and under reasons beyond control of the permit-holder, it is expected that such necessity should not arise. Permit holders are expected to fulfill the formalities and directives under each permit as expeditiously as possible. Wherever considered necessary, the Controller will call for a recommendation from concerned sponsoring authority before

granting necessary extension of validity period for any permit. Working on any expired permit without proper revalidation would tantamount to an offence under the Order".

It will be evident from the procedure explained above that extension of validity period should be the exception rather than the rule. It would, therefore, follow that had the Controller issued a permit in May 1966 for deliveries to be effected during September 1966—February 1967 he would have been acting in contravention of the spirit and intent of the Control Order as amplified by para 8 of the procedure for issuing of permits thereunder.

[Department of Industrial Development O.M. No. TD-29(52)/67, dated 25-11-1969.]

Recommendation

The Committee note that the lowest tender of firm 'A' for one of the items was not accepted *inter alia* on the grounds that their performance against various contracts was "generally unsatisfactory". If this was so, the Committee find it hard to understand why Government chose to place an order with the firm for another item covered by the same enquiry for which their offer was in fact not the lowest. The data about the performance of this as well as the other two firms 'B' and 'C' with whom orders were placed for the item for which firm 'A's tender was the lowest would appear to suggest that the performance of the three firms was by and large, comparable.

[Sl. No. 10 (Para 1.72) of Appendix VI to the 57th Report (Fourth Lok Sabha).]

Action Taken

At the outset, it needs to be clarified that the performance of a firm is primarily required to be judged with reference to the particular item or store under consideration. In this case, two items were involved (i) equipment camouflage scrim garnishing dyed and (ii) equipment camouflage scrim garnishing undyed. The performance of firm 'A' was considered unsatisfactory for the dyed store and not for the undyed store. This explains as to why no order was placed on firm 'A' for dyed store but an order for the undyed store was placed on this firm.

2. In so far as the comparative performance of the three firms 'A', 'B' & 'C', is concerned, a statement showing the performance of these firms in respect of the various contracts which had been placed on them for the dyed store prior to the formulation of the

purchase proposals in this particular case, is enclosed (Annexure I).. It will be observed that the performance of the firms B and C was definitely much better than that of firm 'A'. Apart from the firms' performance against the various contracts, the DGS&D were naturally influenced by the performance of firm 'A' in respect of the latest contract which had been placed on firm 'A' only a few months earlier for 8 lakhs metres and against which they had failed to deliver the stores in time. In the present case, the quantity of the dyed store required was 62,87,000 metres and naturally a firm which had not been able to deliver even 8 lakh metres in time could not be considered for the award of such a large order.

3. In addition to the above, it was recognised that the store was required in grass green shade which was considered to be a difficult item. It was also known that the firm 'A' were only brokers who had to depend upon mills for the supply of cloth and other sources for the dyeing process while firms B & C were themselves manufacturers of the cloth and dyers having their own laboratories for this purpose and whose past performance had been satisfactory. It was, therefore, thought more prudent to depend upon firms B & C for the supply of this difficult item rather than firm 'A'.

4. As regards the placement of an order for undyed store on firm 'A', it has been explained above that the performance of firm 'A' for this store was not considered unsatisfactory. This item was also considered to be an easy one. Further, the capacity of firm 'B' who were the lowest for this item had already been booked by the placement of an order for the dyed store and no further capacity was available with this firm for supplying either dyed or undyed store. In fact, firm 'B' had originally offered only 36 lakh metres against both the items. They were requested to offer an additional quantity but they could offer only 10 lakh metres more. As such, even the entire quantity of item-2 could not be covered on this firm. As no capacity was available with firm 'B' naturally the next higher offer of firm 'A' had to be considered, and, since this was an easy item, an order was placed on them. It needs to be added that if the offer of firm 'A' was also ignored, then it would have been necessary to place an order on the third lowest tenderer at a still higher rate.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(43)/67-PIII, dated 5-11-1969.]

ANNEXURE I

M/S. R. N. JHUNJHUNWALA & CO. (P) LTD., CALCUTTA

A/T No. and Date	Store	Remarks	Performance as per the instruction contained in u.o. dated 21-5-68 (copy enclosed)
CAL/PJ-2/6069N/RNJ/ 153 dated 5-7-63	Equipment camouflage scrim garnishing 2" Grass Green 3,50,000 metres	The stores, though tendered for inspection within the contract delivery period of 10-7-63 were not acceptable [However, the stores were accepted under deviation with price reduction and supplied with a delay of 41 days. As the delay in despatch of stores was due to acceptance of the same under deviation, the delay was condoned and liquidated damages waived.	Fair
CAL/PJ-2/6066-N/6069- N/SRJ/53/R/RNJ/170 dated 17-7-63	Do. 5,50,000 metres	The stores were tendered for inspection and accepted by the delivery date of 23-7-63 but were despatched 52 days after the delivery date due to congestion of other stores against other contracts which were also due for delivery at that time. Token liquidated damages of Rs. 30/- imposed.	Satisfactory
CAL/PJ-2/6022-N/RNJ/ 55 dated 5-3-64.	Do. 8,00,000 metres	The delivery period was 30-4-64. This was extended upto 30-5-64. Stores were tendered for inspection within the extended delivery period and despatched 3 days after the inspection note was issued on 25-6-64. Token liquidated damages of Rs. 30/- imposed.	Satisfactory

M/S. MEGNA MILLS COMPANY LIMITED

CAL/PJ-2/6069-N/NMC/
149 dated 5-7-63

Equipment Camouflage
scrim garnishing Item
4(a)-5,00,000 metres.

The delivery period was 14-8-63. Stores were tendered for inspection on 6-8-63. Inspection note was issued by 31-8-63 and received by the firm on 6-9-63. Supplies were completed by 13-9-63 i.e., a month after the original delivery date. No delay on the part of the firm who had despatched the stores within a reasonable time after receipt of the inspection note. Liquidated damages waived. Good

Item 4(b)-5,00,000
metres

The delivery period was 14-9-63. Stores were tendered for inspection on 7-9-63. Inspection note issued on 4-10-63 and received by the firm on 12-10-63. Due to breakdown of the overhead crane and labour unrest, the firm was able to despatch the stores only on 14-11-63 i.e., after a delay of 2 months. Liquidated damages waived. Satisfactory

Item 4(c)-5,00,000
metres

The delivery period was 15-10-63. Stores were tendered for inspection on 7-10-63. Inspection note was issued on 9-11-63 and received by the firm on 16-11-63. Stores were despatched by 30-11-63. Liquidated damages waived. Good

Item 4(d)-5,00,000
metres

Delivery period was 14-11-63. Stores were tendered for inspection on 10-10-63. Inspection note was issued on 9-11-63 and received by the firm on 18-11-63. The firm requested for railway wagons on 21-11-63 but got them only on 17-12-63 when the goods were despatched. Liquidated damages waived. Good

A/T No. & Date	Store	Remarks	Performance as per the instructions contained in u.o. dated 25-1-68 (copy enclosed).
CAL/PJ-2/6069-N/MMC/291 dated 11-12-63	Equipment camouflage scrim garnishing Item 1-2" Grass Green 3,50,000 metres	The stores were to be delivered in four lots of 87,500 metres each by 31-1-64, 29-2-64, 31-3-64 and 30-4-64. The stores were, however, despatched on 22-4-64, 22-4-64, 17-6-64 and 17-6-64 i.e., delay of 81, 52, 77 and 47 days because of the abnormal delay in the issue of inspection notes. Liquidated damages waived.	Satisfactory
	Item No. 4(a) 3" Grass Green 10,00,000 metres	The stores were to be delivered in two lots of 5,00,000 metres each by 31-1-64 and 29-2-64, but were despatched on 22-4-64 and 20-6-64 i.e., after a delay of 81 and 111 days respectively due to delay in inspection and also dislocation due to communal unrest. Liquidated damages waived.	Do.
CAL/PJ-2/6066-N/6069-N/MMC/56 dated 19-2-63	Item 4-3" Grass Green 48,00,000 metres	The stores were to be delivered in batches by 30-4-63, 31-5-63, 29-6-63 and 31-7-63 but were actually delivered by 3-6-63, 24-6-63, 9-8-63 and 4-9-63 i.e., delay of 34, 24, 41 and 21 days, due to delay in inspection. Liquidated damages waived.	Do.
M/S. EASTERN MANUFACTURING CO. LTD., CALCUTTA			
CAL/PJ-2/6066-N/6069-N/BMC/54 dated 19-2-63.]	Equipment camouflage 3" Grass Green 12,00,000 metres	The stores were to be delivered in 4 lots (3,00,000 metres per month) from 30-4-63 to 31-7-63. Stores were tendered for inspection within the contract delivery period. Inspection note was issued after one month. Despatch effected by the firm after receipt of Inspection Note and Military Credit Notes. Delay negligible and liquidated damages waived.	Good

	3 * M.B. Green (29.08 lakhs) metres	The stores were to be delivered in lots from 30-4-63 to 31-7-63. Stores were tendered for inspection within the delivery period but the inspection notes were issued after 32 days. Despatch effected within 23 days. Liquidated damages waived.	Good
CAL/PJ-2/6069-N/ENC/150 dated 5-7-63.	Do. 8,39,250 metres.	The firm tendered stores for inspection within the delivery period, of 14-8-63, 14-9-63 and 15-10-63. In the first two lots, the supplies were completed on 27-9-63 and 25-9-63 i.e., after a delay of 43 and 10 days respectively. The delay was due to delay in the issue of inspection notes. In the case of the third lot due by 15-10-63, the firm supplied the goods after inspection by 25-9-63, i.e. earlier than the delivery period. Liquidated damages waived.	Do.
CAL/PJ-2/600-N/ENC/57 dated 10-3-64.	2° M.B.Green 6,38,000 metres	The delivery date was 30-4-64. The stores were supplied by 13-6-64 due to delay in the issue of inspection note and Military Credit Note. Liquidated damages waived.	Do.
CAL/PJ-2/6003-N/6004-NBNC/117 dated 25-4-64.	3° M.B. Green 21,000 metres.	The delivery date was 30-6-64. Stores tendered for inspection in time. Stores were supplied on 19-8-64 due to delay in receipt of M.C. Note and want of wagon being small loading. Liquidated damages waived.	Do.

CHAPTER IV

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

Recommendation

The Committee note that 2.14 lakh litres of disinfectant fluid supplied by a firm to the Southern Railway and the Medical Stores Depot, Madras, turned out to be sub-standard and could not be used for the purpose for which it was obtained.

The firm could not, however, be compelled to replace the fluid as legal opinion obtained by Government indicated that the supplier was not obliged to replace it. The Committee also note that tests on the fluid conducted at different stages produced varying results and that Ministry of Health suspect that there was "some criminal interference at all stages of tests", apart from possible misrepresentation by the firm about the dates of manufacture of the fluid. As the matter is stated to be under investigation, the Committee would like to await the results of the investigation.

[S. No. 12 (Para 1.103) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

The Central Bureau of Investigation had investigated into the supplies made by the firm to the South Eastern Railway and not the Southern Railway. On the basis of the CBI's investigation and in consultation with the Central Vigilance Commission, the firm was blacklisted and the Assistant Controller of Stores, South Eastern Railway was "Censured". No action was, however considered necessary in respect of the inspectors of the DGS & D.

As regards the supplies made to the Medical Stores Depot, Madras, the Ministry of Health made a reference to the Central Bureau of Investigation on the 29th June, 1968. The Central Bureau of Investigation, however, did not carry out any investigation but informed the Health Ministry on the 30th July, 1968 (copy enclosed) that as the tests on the samples taken from the supplies of the firm were carried out long after the expiry of the stability of the disin-

fectant fluid, they could not provide a good basis for a possible criminal prosecution, and, therefore, the CBI did not consider any further investigation necessary.

The conduct of the inspecting staff was looked into and it was held that the inspector had done his best in the circumstances.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. PI-12 (48) 67 dated 18th September, 1969].

Confidential

No. 7329/1/146/68-GVIII-LKO

CENTRAL BUREAU OF INVESTIGATION, MINISTRY OF HOME
AFFAIRS, GOVERNMENT OF INDIA, SHASTRI BHAVAN,
NEW DELHI-1

Dated the 30th July, 1968

To

Shri S. N. Varma,
Deputy Secretary,
Ministry of Health, Family Planning & Urban Development,
(Department of Health & Urban Development), New Delhi.

SUBJECT:—*Sub-standard supplies of disinfectant fluids made to the Deputy Assistant Director General (Medical Store) Government Medical Store Depot, Madras.*

Sir,

I am to refer to your letter No. F. 16-12/65-D dated 29th June, 1968 on the subject mentioned above and to say that the matter has been examined by us. From the folder sent with your letter under reference it is seen that this case relates to the supply of 1,15,000 litres of disinfectant fluid to the Medical Store Depot, Madras by M/s. Bengal Tar Products, Lucknow in 1964. M/s. Bengal Tar Products held a rate contract with DGS&D for the period from 1st July, 1963 to 30th June, 1964 for supply of coal tar disinfectant fluids. On an order placed by Dy. Assistant Director General (Medical Stores Depot) Madras on 15th October, 1963 this firm supplied 1,15,000 litres in 4,757 drums on five different dates between 18th February, 1964, and 4th May, 1964. The supplies were passed by an Assistant Inspector of the Directorate of Inspection, Calcutta according to the terms of the contract.

In March 1964 a rival firm complained that the stores supplied by Ms. Bengal Tar Products were sub-standard. On this complaint

DADG (MSD), Madras had samples taken from the supply at Madras on 15th April, 1964 by the Drugs Controller, Madras. The samples were tested by the Government Analyst Madras who found them substandard.

When the matter was taken up with the firm they represented that fresh samples may be taken in their presence and tested again. Fresh samples were accordingly taken on 17th May, 1965 and got tested at the National Test House, Alipore. Test results again showed them substandard.

When the matter was pursued with the firm for making fresh supply in replacement, the firm declined to make supply. They took refuse under the plea that their initial supplies had been duly passed by the Directorate of Inspection and the results of tests conducted after 15th April, 1964 would not be valid because the prescribed period of stability according to the contract was only 6 months and, therefore, chemical analysis conducted after the period of stability might show deviations from the standard required. This plea was supported by the opinion of the Indian Standards Institution and also the Directorate of National Test House, Calcutta.

It appears that the Director General, Health Services has already referred the matter relating to the omissions in the procedure followed for inspection by the Directorate of Inspection, Calcutta to the Directorate General of Supplies and Disposals, on 25th November, 1965, requesting an enquiry from both the technical and vigilance angles regarding the circumstances in which such lapses on the part of the Inspectorate had occurred. The result of enquiry conduct by DGS&D is not known.

The C.B.I. have already investigated one case (R.C. 17/64 of 'SPE Calcutta) against the same firm on the allegation of sub-standard supply of disinfectant fluid to the South Eastern Railway, Kharagpur. This case was registered on 9th March, 1964 and 528 drums of disinfectant fluid were seized from S. E. Railway Godown by the SPE and samples got tested at the Alipore Test House and also by the Public Analyst, West Bengal. Test results showed sub-standard quality. After investigation the following action was recommended:—

- (i) Regular departmental action against Shri P. C. Fullouton, Assistant Controller of Stores, S. E. Railway.
- (ii) Suitable action against Shri K. K. Bijani, Examiner of Stores both under Deputy Director of Inspection, Kanpur.

(iii) M/s. Bengal Tar Products of Moti Nagar, Lucknow to be blacklisted.

On the report of the C.B.I. the Central Vigilance Commission advised action against Shri Fullouton and blacklisting the firm. No action was recommended against Shri Bijani and Oboveja. The firm was accordingly blacklisted in July, 1965. Shri Fullouton was punished with a 'Censure' in departmental proceedings. The facts of this case were also examined by the Ministry of Law when the question of prosecution of the Firm was raised. The Law Ministry advised that there was no case for prosecution in the absence of evidence to implicate the partners of the firm.

In para (xv) of the note enclosed to your letter a reference is made to SPE investigation into the S. E. Railway case and also of S. Railway Excepting R. C. 17/64-Calcutta referred to above there has been no other investigation by the S.P.E. in this matter.

In view of the investigation already done by us in South Eastern Railway's case as a result of which the firm was blacklisted it is felt that no substantial purpose will be served by our investigating the Madras Medical Stores Depot case at this stage. The matter is not likely to lead to prosecution because the question of taking samples and drawing specific conclusions from the tests does not arise in this old case of 1964. The earliest sample in this case was taken on 15th April, 1964 by the Drugs Controller, Madras. The tests were conducted to see if the disinfectant was upto the standard prescribed under the Drugs Rules. There is no mention in this report about IS specification No. 1061-1967 with amendment No. 1 of December, 1962, which is the specification mentioned in the rate contract. When samples were taken by the Drugs Controller, Madras this particular point had perhaps been overlooked. In the subsequent test results conducted at Calcutta the correct specification mentioned in the rate contract had been taken up for check. These tests, however, were conducted after 17th May, 1965 only, long after expiry of the period of stability of the disinfectant fluid. The available test results in this case do not, therefore, provide a good basis for a possible criminal prosecution, even if additional evidence should be forthcoming now.

The D.G.H.S. has already requested the D.G.S. & D. to conduct a detailed check from the vigilance as well as technical angle regarding the conduct of inspecting staff who passed these supplies in the first instance. It is presumed that the DGS&D would have made this check and taken suitable action. It does not seem neces-

nary or desirable for the Central Bureau of Investigation to make a further check on the same points at this stage. As the D.G.S. & D. has already been requested to conduct an enquiry into the conduct of the Inspecting staff, we would be grateful if a copy of the report of DGS&D is made available to us soon. If its examination shows that any further enquiry is necessary by the Central Bureau of Investigation against any officer of the DGS&D etc., we will let the Ministry know and then proceed further.

Yours faithfully,

Sd/- C. V. NARASIMHAN,

*Deputy Inspector General of Police
Central Bureau of Investigation.*

Recommendation

Two aspects of the case, however, call for comment at this stage. The chronological account of the developments in the case as furnished to the Committee by the Railway Board suggests that effective action on the complaint was not taken by the Director General, Supplies and Disposals promptly enough. In fact, a year after the complaint was lodged, the Director General, Supplies and Disposals informed the Railways incorrectly that the complaint was not lodged before the expiry of the stability period of the fluid. The Committee would like Government to examine how far the procedure adopted by the Director General, Supplies and Disposals, in processing the complaint was instrumental in frustrating Government's claims against the firm for the deficiencies in the supply. The Committee also notice that the Railways on their part asked the Director General, Supplies and Disposals to procure 18 months' requirements without specifically considering that the stability period of the fluid was only six months. The Committee note that the specification for the fluid has since been revised to 12 months. They hope that in future the Railways will ensure that supplies are not indented for at any one time for a period in excess of the prescribed stability period of the fluid.

[S. No. 12(Para 1.104) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

As regards the first point that effective action on complaints was not taken by DGS & D promptly, the case is being examined. The results will be communicated to the Public Accounts Committee in due course.

The second point regarding submission of indents concerns the Ministry of Railways (Railway Board) and as such this Department have no comments to offer.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O. M. No. PI-12 (48) 67, dated 18th September, 1969].

Further information

From the last para of CBI's letter dated 30th July, 1968, addressed to Ministry of Health, it is seen that DGHS asked DGS&D to conduct a detailed check from the vigilance as well as technical angle regarding the conduct of the inspection staff who passed the supplies of disinfectant fluid.

Please furnish a copy of the report.

Reply

The conduct of the inspecting staff had been examined even before the receipt of the CBI's letter. A copy of the relevant noting in this connection is given below:—

* * * *

3. A question has also been raised in regard to the part played by our inspectors in the case of defective supplies. It appears that this matter is already under the consideration of DDG (I). We would like to know as to what is the position and what are his findings.

Sd/- S. S. PURI,
22.4.67.

DGS&D

Min. of Supply u.o. No. 3632-PI/67 dated 22-4-1967.

Reference: Para 3 of Director (Vig)'s note dated 22.4.69 and DS (OPC)'s note dated 13.7.67.

Case discussed with DDG (I).

During the initial enquiry regarding the supply of Coal Tar Disinfectant Fluid to DADG (MS), M.S.D., Madras the previous DDG (I) felt that the sampling, particularly against item No. 1 had not been correctly done by the Inspector, as the huge lot i.e. 9,000 containers of 22 litres each of Disinfectant Black Gr. 1, tendered by the firm could not be the product of a single batch. Therefore, the drawal of one sample against this grade was not a true representative of the lot offered for inspection. To get this point clarified, comments of DDI, Kulti and DI, Calcutta, were called for and were examined

by the previous DDG (I) and DDG (G), who agreed that for the present no action was considered necessary.

However, it is felt that the mode of sampling adopted by the Inspector was not strictly as per governing specification or as per instruction given by DDI, Kulti but all the same he took precautions to draw samples from much larger number of containers—50 Nos. instead of maximum 10 Nos. as per ISS: 1061/57 to make a composite sample. The composite sample drawn from the lot and sent to the Medical Stores Laboratory was declared as acceptable. Even the samples drawn jointly with the representative of the consignee from the complained lot and sent to N. T. H. for re-test, did not show any wide variations from the specification. The main variations were with regard to the stability test and germicidal value. The stability test could never be expected to be the same as when tested within the keeping period, as per specification. The sample from the complained material was tested after about 18 months from the date of first inspection. The slightly lower germicidal value could also be due to the reasons of long shortage.

In view of the above, in my opinion, the Inspector had done his best he could do under the circumstances.

Sd/- G. K. Ahuja,
DDG (I) 21-7-67.

Sd/- H. C. GHULATI,
DI (E) 21-7-67.

Recommendation

The Committee note that 2.14 lakhs litres of disinfectant fluid supplied by a firm to the Southern Railway and the Medical Stores Depot, Madras, turned out to be sub-standard and could not be used for the purpose for which it was obtained. The firm could not, however, be compelled to replace the fluid as legal opinion obtained by Government indicated that the supplier was not obliged to replace it. The Committee also note that tests on the fluid conducted at different stages produced varying results and that Ministry of Health suspect that there was "some criminal interference at all stages of tests". apart from possible mis-representation by the firm about the dates of manufacture of the fluid. As the matter is stated to be under investigation, the Committee would like to await the results of the investigation.

Two aspects of the case, however, call for comment at this stage. The chronological account of the developments in the case as furnished to the Committee by the Railway Board suggests that effective action on the complaints was not taken by the Director General,

Supplies and Disposals promptly enough. In fact, a year after the complaint was lodged, the Director General, Supplies and Disposals informed the Railways incorrectly that the complaint was not lodged before the expiry of the stability period of the fluid. The Committee would like Government to examine how far the procedure adopted by the Director General, Supplies and Disposals, in processing the complaint was instrumental in frustrating Government's claims against the firm for the deficiencies in the supply. The Committee also notice that the Railways on their part asked the Director General, Supplies and Disposals to procure 18 months' requirements, without specifically considering that the stability period of the fluid was only six months. The Committee note that the specification for the fluid has since been revised to 12 months. They hope that in future the Railways will ensure that supplies are not indented for at any one time for a period in excess of the prescribed stability period of the fluid.

[S. No. 12, Appendix VI, Para Nos. 1.103 & 1.104 of 57th report of the P.A.C., 1968-69].

Action Taken

Para 1·103

This concerns the Department of Supply etc. and no remarks are, therefore, being offered by this Ministry.

Para 1·104

The observations of the Committee are noted so far as the Ministry of Railways are concerned and suitable instructions have been issued to the Railway Administration *vide* letter No. 68-B(C)-Genl|17 dated 25th May, 1969 (Copy attached).

This has been seen by Audit.

[Ministry of Railways (Railway Board)'s O. M. No. 68-B(C)-Genl|17 dated 28th May, 1969].

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 68-B(C)-Genl|17.

New Delhi, dated 25-5-1969.

Jyaistha 4, 1891.

To

The General Managers,
 All Zonal Railways,
 C. L. W., D. L. W. & I. C. F.

SUB: 57th Report of the P.A.C. (4th Lok Sabha)—Supply of disinfectant fluid to the Railways—Recommendation No. 12 regarding.

After examining para 105 of Audit Report (Civil), 1968 (copy enclosed) in connection with the purchase of disinfectant fluid, the Public Accounts Committee in their 57th report (1968-69) have observed as under:

“The Committee also notice that the Railways on their part asked the Director General, Supplies and Disposals to procure 18 months’ requirements, without specifically considering that the stability period of the fluid was only six months. The Committee note that the specification for the fluid has since been revised to 12 months. They hope that in future the Railways will ensure that supplies are not indented for at any one time for a period in excess of the prescribed stability period of the fluid.”

2. The Board desire that in respect of disinfectant fluid, it should be ensured that supplies are not indented for, at any one time, for a period in excess of the prescribed stability period.

3. These instructions also apply to any other stores where limitations of stability period may apply.

4. This may be brought to the notice of all concerned on your Railway.

5 Please acknowledge the receipt.

DA|As above.

Sd|- P. R. BHAGWAT,
 Dy. Director Railway Stores (G),
 Railway Board.

No. 68-B(C)-Genl|17.

New Delhi, dated 25-5-1968.

Jyaistha 4, 1891.

Copy forwarded for information to:

1. Director General, R.D.S.O., Lucknow.
 2. R.L.O., Parliament Street, New Delhi.
 3. The D.G.S. & D. Parliament Street, New Delhi.
 4. All Branches of the Stores Directorate, F(S)I, F(S)II, M(W), M(L), W-II, W-III and Track Branches of the Board's office.
 5. R.S. (G) Branch (10 spare copies).
 6. A.D.A.I. (Railways), New Delhi (with 45 spare copies).
- DA, As above.

Sd|- P. R. BHAGWAT,

Dy. Director Railway Stores(G),
Railway Board.

EXTRACT OF PARA 105 OF AUDIT REPORT (CIVIL), 1968.

Para 105, Purchase of sub-standard disinfectant fluid.—

In July, 1963, the Director General, Supplies and Disposals awarded rate contracts to two firms in Bombay and Lucknow for the supply of coal-tar disinfectant fluid at Rs. 0.90 and Rs. 0.87 per litre respectively. The terms of the contracts, *inter alia*, provided that the fluid should remain stable for a period of at least six months from the date of manufacture.

Orders for the supply of 0.99 lakh litres of the disinfectant fluid were placed on the Lucknow firm by the Southern Railway, representing the Railway's requirements for a period of 18 months, even though the stability period prescribed for the fluid was only six months. An order for a further quantity of 1.15 lakh litres of this fluid was placed by the Medical Stores Depot, Madras on the same firm. The supplies were inspected by the Director General, Supplies and Disposals, and were received by the Southern Railway in two batches between December, 1963 and March, 1964 and by the Medical Stores Depot between February, 1964 and May, 1964.

It was suggested by the Bombay firm in March, 1964 that the quality of the fluid supplied by the other firm at a lower rate than theirs might not be up to specifications. Samples were, accordingly,

drawn from the supplies made by the Lucknow firm to both the indentors and the test reports revealed sub-standard quality of the fluid.

In January, 1965, the firm were asked to refund 90 per cent of the amount received by them in respect of supplies to Medical Stores Depot or to replace the fluid. The firm agreed in February, 1965 to replace the fluid only if a fresh sample from their supplies was drawn by a joint board (with representatives of the firm, the Depot and the Directorate of Inspection, Madras) and tested by an appellate testing authority of the Government of India. Fresh samples drawn in May, 1965 and tested in the National Test House, Alipore, Calcutta were found sub-standard owing to their deficiency in respect of stability after dilution|germicidal value. The Director General, Supplies and Disposals asked the firm in August, 1965 to replace the supplies at their own risk and cost but the firm did not agree.

In the case of supplies made to Southern Railway, the tests on the samples from the first batch supplied in December, 1963|January, 1964 revealed sub-standard quality of the fluid. Neither was a complaint lodged by the Southern Railway with the supplier, nor were the supplies rejected. Similarly, the rejection of the supplies in the second batch received in March, 1964 was done in August, 1964, i.e. after the expiry of the minimum stability period. Attempts made by the Southern Railway to negotiate a reduced rate for the first batch and return of the second batch proved futile, as the firm contended that partial use of the stores supplied destroyed the right of the consignee to reject the stores.

The case is stated (October, 1967) to be under investigation by the Special Police Establishment.

The Department of Supply have stated (February, 1968) that the material was inspected and accepted according to the established procedure, that the inspector had done his best in the circumstances and that, as such, no action was called for against the inspection staff of the Directorate General.

Recommendation

The Committee note that an agreement executed by the I.S.M. with a firm of shipping agents, which in the normal course would have run upto 23-9-67, was prematurely terminated by Government with effect from 31-3-66, on an *ex-gratia* basis, to save losses to the firm. In the result, Government incurred an extra expendi-

ture of £19,320 by way of remuneration of a new firm who were appointed as shipping agents. Further, as the appointment of the new agents could not be synchronised with the termination of the agreement with the old agents, the agents had to be asked to continue for the interregnum on payment of a sum of £5,045 which would have been avoided had the agreement executed with them continued to be in force. The Committee also understand from Audit that the termination of the agreement gave rise to a claim for the revision of an agreement executed by the Ministry of Transport with one of their overseas agents which had also to be agreed to.

The Committee consider it unfortunate that Government should have come to a decision on the termination of the Agreement without fully weighing the consequences of the decision. What the Committee find hard to understand is why Government committed itself to the termination of the agreement, before even tenders for the appointment of the new agents had been called. Government were hardly in a position to assess what the cost of their commitment was going to be. Government have stated that they agreed to the termination on the "equities of the case", but it is not clear how a decision in this regard could be arrived at when the firm did not agree "even to make their books available for checking the losses." The Committee cannot resist the impression that, in arriving at a decision to terminate the agreement, the interests of Government were not adequately safeguarded. [57th Report (Fourth Lok Sabha) S. No. 13, Paras 2.12 and 2.13. Appendix VI].

Action Taken

1. In 1962 when the Ministry of Transport took over the responsibility of making shipping arrangements in respect of consignments, contracts for which were signed by the Indenting Authorities in India, they entered into an agreement with a West German firm of Forwarding Agents known as Schenkers, under which they were not to receive any payments from Government, but were to be compensated by the income to be received by them in the form of a commission of about 2½% of the freight payable on continental shipments by the ship owners direct. It may be clarified here that no such commission was or is payable by shipowners in respect of shipments from the U.K. At that time continental shipments were about 70% and U.K. shipments about 30% of the total cargoes involved. On the analogy of the arrangements made by the Ministry of Transport, the Department of Supply entered into a similar agreement with M/s. Bahr Behrend & Co. in respect of orders placed by I.S.M., London. Prior to entering into an agreement with M/s. Bahr Behrend & Co. in September, 1962, they were in receipt of 6

pence per ton on U.K. cargoes for the first one lakh tons a year, 3 pence per ton for the balance of the cargoes for each year and 6 pence per ton on Continental cargoes, subject to a minimum of £1,250/-. With the agreement executed with them in September, 1962, they ceased to get this commission. They were thus left to finance their expenditure from the commission of 2½% on the continental freight which they earned from the Conference Lines as Forwarding Agents. The agreement had proceeded on the understanding that the U.K. cargoes would be in the neighbourhood of 30% or so on which they were not entitled to any commission and the continental cargoes about 70% on which they would get 2½% commission. Prior to the conclusion of this agreement with M|s. Bahr Behrend, the India Supply Mission, London had a full-fledged Shipping Directorate. The work which was being undertaken by this Directorate was transferred to the Shipping Agents and a reduction in expenditure to the extent of £42,000 per annum was brought about.

2. The disposition of the Cargoes, mentioned above, was, however upset on account of the Chinese aggression in 1962 which resulted in a major switch-over of purchases from the Continent to U.K. The firm, therefore, complained that they were suffering losses and asked for revision of the agreement in June, 1964. Efforts were made by the Government to persuade the Shipping Agents to continue with the work. Even though some remuneration was offered to them no conclusion could be reached on this point and the firm requested that they be absolved from the agreement with effect from 31-12-65 on the grounds that they were suffering heavy losses. It may be mentioned that while the question of affording some relief to the shipping agents during the pendency of the then existing agreement was under consideration, the Audit observed that no remuneration beyond the scope of the agreement should be agreed to without considering the propriety of inviting fresh tenders. Tenders were accordingly invited on 18-10-65 and the cancellation of the agreement with Bahr Behrend was to be effective from 31-3-66. It was expected that the new agents would be appointed by 1-1-66 with the total assumption of duties by 31-3-66. Actually, however, it was possible to appoint the new agents on the basis of lowest acceptable offer with effect from 1-6-66 only. During the interim period (i.e. from 1-4-66 to 31-5-66), M|s. Behr Behrend were asked to continue on payment of a suitable remuneration.

3. The following reasons weighed with the Government in foreclosing the agreement:—

- (a) M|s. Behr Behrend had served the Government of India faithfully for over 30 years and the forwarding agency

agreement had proceeded on the understanding that the U.K. cargoes would be in the neighbourhood of 30% and the continental cargoes about 70%. No commission was earned by the Forwarding Agents in respect of U.K. cargoes. They were to finance themselves from the 2½% commission earned by them on continental shipments. The Chinese aggression in 1962 resulted in a major and continuing switch-over of purchases to U.K. Consequently, the commission earned by them on continental shipments was inadequate to cover all their expenses.

- (b) By entering into forwarding agency arrangements with M/s. Bahr Behrend in 1962, the Government of India not only saved the remuneration which would have amounted to £4,050 actually paid in 1961-62 but also it had saved not less than £42,000 per annum by retrenching the staff doing the shipping work in the India Supply Mission, London.
- (c) At the time the agreement was entered into it was expected that 70% of the cargoes would be from the continent and 30% from U.K. To the extent, therefore, that the J.K. cargoes rose above 30%, which was not expected by the Shipping Agents, there could be no objection to giving some *ex gratia* consideration to the proposal made by M/s. Bahr Behrend. As pointed out in (b) above, the expenditure in any case was much less than what was incurred by Government before the special arrangements were made in 1962.
- (d) Regarding the question of loss, it is felt that had Government persisted with a reluctant shipping agent and insisted on specific performance of the agreement, the indirect loss to the Government through dislocation of shipment of stores could have been larger. The bulk of the large value stores imported from the Continent are required to meet vital requirements of the Defence and other priority indentors. The charges which the Government pay to the Forwarding Agents for their services from only a fraction of the cost of the stores. It might have been open to the Government to have insisted upon the fulfilment of the contract with M/s. Bahr Behrend and if necessary to have enforced its rights in a court of Law on the failure of the firm to perform the contract for the full period of its currency, but it is doubtful how far it would have been worthwhile keeping in view the equit-

able considerations stated above. In this context, a satisfactory shipping arrangement on payment of certain extra charges was in the overall interest of the Government.

4. The Ministry of Transport & Shipping also, appreciating the fact that Government's contractors cannot be expected to serve them without a reasonable income, amended their own agreement with the Forwarding Agents in response to a request made by the latter in May, 1966, so as to provide for some compensation in the event of disproportionate rise in the non-remunerative portion of the shipments (i.e. those from the U.K.) and a consequent drop in the remunerative portion (i.e. those from the Continent). The actual formula agreed upon was as follows:—

In the event of the U.K. shipments going above 35 per cent and the Continental shipments falling below 65 per cent of the total in terms of freight, payment would be made at the rate of 1 per cent of the value of freight on all U.K. shipments ($\frac{1}{2}$ per cent in the case of steel) provided that the total remuneration that would accrue to the firm both by way of commission from the shipments from West-Europe as well as on account of payments from the Government of India would not exceed 1.75 per cent of the total freight on all shipments. Up to date, the disposition of cargoes has been such that no payment has been made by Government to Sehenkers

5. Government had envisaged that it would be possible to appoint the new Shipping Agents by 1-1-66 with the total assumption of duties by 31-3-66. Unfortunately, however, this expectation did not materialise. The Shipping Agents were maintaining a large staff and it was necessary for them to know a definite date sufficiently in advance about the termination of the contract, as they were morally and legally bound to give appropriate terminal notice to their employees.

6. As regards checking of the books of the firm, to verify their statement of loss, an extract of minutes of meeting held in London on 20-5-65 is reproduced below:—

"To a query of the Director General they (M/s. Bahr Behrend) agreed that a representative of the India Supply Mission might visit their offices in London and Liverpool to satisfy himself about the figures. Bahr Behrend would willingly make available the books and documents but there were certain books and documents which in principle they could not make available to any one outside the

company. In respect of these Bahr Behrend would have on objection to either a firm of recognized British Accountants examining these or alternatively, to their producing certified statements by their own Auditors." The question of examining the books was not pursued since it was proposed to invite tenders and to terminate the agreement without compensating the firm for the losses claimed to have been incurred by it in the previous years. The examination of the books of the firm would have been necessary if it had to be compensated for its losses, but it was not necessary for a premature termination of the agreement, as was decided in this case.

7. The Government kept in view its interests while terminating the old agreement and entering into a new one.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. PII-7(1)/67, dated 9-10-1969].

CHAPTER V

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

Recommendation

The Committee observe that the extra expenditure incurred in this case has not been made good by the firm and that the case is being processed for arbitration. The Committee would like to be apprised of the outcome of these proceedings.

[S. No. 7 (Para 1.42) of Appendix VI to the 57th Report (4th Lok Sabha)].

Action Taken

Before the Arbitrator could be appointed, the suppliers filed a suit in the court at Patna. Government have moved section 34 application for reference of the issue to arbitration, as the contract is governed by the arbitration clause. Counter claim on behalf of Government can be made in the arbitration proceedings after the suit filed by the suppliers in the court at Patna is decided. The Public Accounts Committee will be informed of the further development in due course.

[Ministry of Foreign Trade & Supply (Deptt. of Supply) O.M. No. 12(29)/67-PI, dated 31-5-1969].

NEW DELHI;
January 6, 1970.

Pansa 16, 1891 (S).

ATAL BIHARI VAJPAYEE,
Chairman,
Public Accounts Committee.

APPENDIX

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para No. Report	Ministry/Department concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
I	I. II	Deptt. of Supply	The Committee are not happy about the manner in which Government investigated complaints about the quality of disinfectant fluid supplied to the Medical Stores Depot, Madras. The supplies to the depot (1.15 lakh litres) were made between 18th February, 1964 and 4th May, 1964. The earliest samples for test which showed the fluid to be sub-standard, were taken on 15th April, 1964, but the test report was vitiated, because it made no mention about the relevant specifications of the fluid. Moreover, the samples were not drawn in the presence of the firm's representatives. Subsequent samples for test, which again showed the fluid to be sub-standard, were taken on 17th May, 1965 but this was long after the expiry of the prescribed period of stability for the fluid. The tests results did "not therefore provide a good basis for a possible criminal prosecution" and the Central Bureau of Investigation had consequently to give up further investigations.

(1)	(2)	(3)	(4)
1 12	Deptt. of Supply	<p>The Committee would like Government to investigate the omissions that occurred at several stages of testing and the reasons for the intervening delay after the original test had established the disinfectant fluid to be sub-standard within the period of stability. The Department of Supply have stated that the inspector who passed the supplies "had done his best in the circumstances". The Committee are unable to appreciate the basis for this inference, particularly as the test conducted on samples drawn as early as April, 1964 (i.e., within two months of the commencement of supply showed the fluid to be sub-standard. It is true that the test report did not mention the specification but this apparently was a technical or procedural omission, which did not detract from the fact that the fluid was sub-standard. The Committee would like Government to re-examine the question of responsibility of the inspecting staff involved in this case.</p>	
2	1. 13	-d-	<p>In para 1.104 of their 57th Report, the Committee had drawn attention to another aspect of this case, arising out of the supplies made to another consumer, the Railways. This was the question how far the dilatory procedure adopted by the inspecting staff of the D.G.S. & D. dealing with complaints from the Railways were instrumental in frustrating Government's claims against the firm for deficiencies in supply. The Committee are unhappy about the delay in processing the investigations as lapse of time makes it difficult to find</p>

3

the truth and helps the defaulter. They suggest its expeditious conclusion.

3

1.16

Deptt. of Supply

The Committee are not convinced by the arguments put forward by Government for the premature termination of the agreement with the shipping agents. As pointed out earlier in their 57th Report (Fourth Lok Sabha), this involved an extra expenditure of £24,365. Government have stated that the agreement, which provided for the agents reimbursing themselves out of freight commission (without any remuneration as such from Government) "proceeded on the understanding that the U.K. cargoes would be in the neighbourhood of 30 per cent or so . . . and the continental cargoes about 70 per cent." The agreement itself, however, does not show that this was the basis of the understanding between Government and the shipping agents. In any case, apart from such legal considerations, no effort was in fact made by Government to ascertain from the books of the firm that the agreement was causing them "heavy losses". Government have also pointed out that the firm had been serving them "faithfully for over 30 years" and saved Government "not less than £42,000 per annum". It is inconceivable that a firm would have persisted in any arrangements made with Government unless they were remunerative to them. The Committee hope that Government will draw a lesson from their experience in this case and will not allow such considerations to cloud their judgment in business dealings with foreign firms in future.

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
DELHI					
24.	Jain Book Agency, Connaught Place, New Delhi.	11	33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	68
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9	35.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	82
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	36.	Hind Book House, 82, Janpath, New Delhi.	95
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	37.	Bookwell, 4, Sant Narankari Colony, Kingsway Camp, Delhi-9.	96
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20	MANIPUR		
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	38.	Shri N. Chaohe Singh, News Agent, Ramlal Paul High School Annex, Imphal.	77
31.	Eahree Brothers, 188 Lajpatrai Market, Delhi-6.	27	AGENTS IN FOREIGN-COUNTRIES		
32.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66	39.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON W.C.—2.	99

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