

# **COMMITTEE ON PUBLIC UNDERTAKINGS (1969-70)**

## **FIFTY-THIRD REPORT**

**(FOURTH LOK SABHA)**

**Action taken by Government on the Recommendations  
contained in the Fifth Report of the Committee on  
Public Undertakings. (Fourth Lok Sabha)**

**Contract entered into by State Trading Corporation of  
India Ltd. with M/s. Oval Industries Inc., New York  
for Import of Sulphur.**

**(MINISTRY OF FOREIGN TRADE)**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*December, 1969/Agrahayana, 1891 (Saka)*

*Price : Rs. 1.80 Paise*

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOKSABHA  
SECRETARIAT PUBLICATIONS**

Sl No.	Name of Agent	Agency No.	Sl No.	Name of Agent	Agency No.
<b>ANDHRA PRADESH</b>					
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam)	8	12.	Charles Lambert & Company, 101, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.	30
2.	G.R. Lakshminpathy Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	94	13.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.	60
<b>ASSAM</b>					
3.	Western Book Depot, Pan Bazar, Gauhati.	7	14.	Deccan Book Stall, Ferguson College Road, Poona-	65
<b>BIHAR</b>					
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.	37	15.	M/s. Usha Book Depot, 485/A, Chira Bazar, Khan House, Girgaum Road, Bombay-2 BR.	5
<b>GUJARAT</b>					
5.	Vijay Stores, Station Road, Anand.	35	<b>MYSORE</b>		
6.	The New Order Book Company, Ellis Bridge, Ahmadabad-6.	63	16.	M/s. Peoples Book House, Opp. Jagannathan Palace, Mysore-1.	
<b>HARYANA</b>					
7.	M/s. Prabhu Book Service, Nel Subainandi, Gurgaon (Haryana).	14	<b>RAJASTHAN</b>		
<b>MADHYA PRADESH</b>					
8.	Modern Book House, Shiv Vilas Palace, Indore City.	13	17.	Information Centre, Government of Rajasthan, Tripolia, Jaipur City.	38
<b>MAHARASHTRA</b>					
9.	M/s. Sunderdas Gianchand, 601, Girgaum Road, Near Princess Street, Bombay-2	6	<b>UTTAR PRADESH</b>		
10.	The International Book House (Private) Limited, 9, Ash Lane, Mahatma Gandhi Road, Bombay-1.	22	18.	Swastik Industrial Works, 59, Holi Street, Meerut City.	2
11.	The International Book Service, Deccan Gymkhana, Poona-4.	26	19.	Law Book Company, Sardar Patel Marg, Allahabad-1.	48
<b>WEST BENGAL</b>					
<b>MAHARASHTRA</b>					
12.	M/s. Mukherji Book House, 3B, Duff Lane, Calcutta-6.		20.	Granthaloka, 4/1, Ambica Mookherjee Road, Belgaria, 24 Parganas.	
<b>MADHYA PRADESH</b>					
13.	M/s. Mukhopadhyay, 6/1A, Banchharam Akkur Lane, Calcutta-12		21.	W. Newman & Company Ltd., 3, Old Court House Street, Calcutta.	44
<b>WEST BENGAL</b>					
14.	M/s. Mukherji Book House, 3B, Duff Lane, Calcutta-6.		22.	Firma R.L. Mukhopadhyay, 6/1A, Banchharam Akkur Lane, Calcutta-12	82

CORRIGENDA

Fifty-third Report of the Committee on Public Undertakings (1969-70) on Action Taken by Government on the recommendations contained in the Fifth Report of the Committee on Public Undertakings (4th Lok Sabha) on Contract entered into by State Trading Corporation of India Ltd., M/s Oval Industries Inc., New York for Import of tur.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
4	-	8	Add (p.13)	after S.No.(3)
6	1	12	'At the earliest possible opportunity instead of taking'	'The Committee feel that the proper course for the'

## CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE . . . . .	(iii)
COMPOSITION OF THE STUDY GROUP . . . . .	(v)
INTRODUCTION . . . . .	(vii)
I. Report . . . . .	1
II. Recommendations that have been accepted by Government . . . . .	2
III. Recommendations which the Committee do not desire to pursue in view of Government's reply . . . . .	13
IV. Recommendations in respect of which replies of Government have not been accepted by the Committee . . . . .	20
V. Recommendations in respect of which final replies from Government are still awaited . . . . .	21
APPENDICES	
I. Letter dated 17-1-1967 from Shri M. R. Dutt, representative of M/s. Oval Industries in India to the Chairman, State Trading Corporation of India Ltd. . . . .	22
II. Report of the Enquiry Committee appointed by Government to enquire into the contract entered into by the S. T. C. with M/s. Oval Industries Inc., New York for import of sulphur . . . . .	24
III. Analysis of the action taken by Government on recommendations contained in the Fifth Report of the Committee on Public Undertakings (Fourth Lok Sabha) . . . . .	37

COMMITTEE ON PUBLIC UNDERTAKINGS  
(1969-70)

CHAIRMAN

Shri M. B. Rana\*

MEMBERS

2. Shri R. K. Amin
3. Shri Bal Raj Madhok
4. Shri K. Ananda Nambiar
5. Shri Vishwa Nath Pandey
6. Shri T. A. Patil
7. Shri G. S. Reddi
8. Shri P. M. Sayeed
9. Shri Digvijaya Narain Singh
10. Shri G. Viswanathan
11. Shri Nand Kishore Bhatt
12. Shri Godey Murahari
13. Shri Bhabhani Charan Pattanayak
14. Shri Rajendra Pratap Sinha
15. Shri Dattopant Thengari

SECRETARIAT

Shri S. C. Mookerjee—*Deputy Secretary.*

Shri M. N. Kaul—*Under Secretary.*

---

\*Appointed Chairman w.e.f. 10-12-1969 vice Shri G. S. Dhillon resigned.

**STUDY GROUP VI ON ACTION TAKEN REPORTS**

**COMMITTEE ON PUBLIC UNDERTAKINGS  
(1969-70)**

1. Shri B. C. Pattanayak—*Convener*
2. Shri D. Thengari—*Alternate Convener*
3. Shri T. A. Patil
4. Shri G. S. Reddi
5. Shri N. K. Bhatt

**SECRETARIAT**

Shri S. C. Mookerjee—*Deputy Secretary.*

Shri M. N. Kaul—*Under Secretary.*

## INTRODUCTION

I, the Chairman, Committee on Public Undertakings, having been authorised by the Committee to submit the Report on their behalf, present this Fifty-third Report on the Action Taken by Government on the recommendations contained in the Fifth Report of the Committee on Public Undertakings (4th Lok Sabha) on contract entered into by State Trading Corporation of India Ltd. with M/s. Oval Industries Inc., New York for import of Sulphur.

2. The Fifth Report of the Committee was presented to Parliament on the 20th December, 1967. Government furnished their replies indicating the action taken on the recommendations contained in the Report on the 18th March, 1963, 11th March, 1969 and 24th November, 1969. The replies of Government on the recommendations contained in the aforesaid Report were considered and approved by the Committee on the 15th and the 25th November, 1969. The Committee authorised the Chairman to finalise the Report and present it to Parliament.

3. The Report has been divided into the following five Chapters:—

I. Report.

II. Recommendations that have been accepted by Government.

III. Recommendations which the Committee do not desire to pursue in view of Government's reply.

IV. Recommendations in respect of which replies of Government have not been accepted by the Committee.

V. Recommendations in respect of which replies from Government are still awaited.

4. An analysis of the action taken by Government on the recommendations contained in the Fifth Report of the Committee on Public Undertakings (4th Lok Sabha) is given in the Appendix III. It would be observed therefrom that out of 24 recommendations contained in the Report, 67 per cent have been accepted by the Government and the Committee do not desire to pursue 33 per cent of the recommendations in view of Government's reply.

NEW DELHI;

December 15, 1969.

Agrahayana 24, 1891 (S).

M. B. RANA,

Chairman,

Committee on Public Undertakings.

## CHAPTER I

### REPORT

The subject matter contained in the Fifth Report of the Committee on Public Undertakings (4th Lok Sabha) on the contract entered into by State Trading Corporation of India Ltd. with Messrs Oval Industries Inc., New York for import of sulphur was referred to the Committee by the Speaker for examination and report and an announcement to this effect was made in the Lok Sabha on the 25th July, 1967. The Report was presented to Parliament on the 20th December, 1967.

On the 23rd December, 1967 a letter was addressed to the Secretary, Ministry of Commerce requesting that replies of Government to the recommendations contained in the aforesaid report may be sent to Lok Sabha Secretariat within six months time. In another communication dated the 15th February, 1968, it was impressed upon that due to the urgency of the matter, the Speaker, Lok Sabha had desired that the replies of the Government on the aforesaid report may be expedited and preferably sent to the Secretariat by the 1st March 1968. After several reminders, replies to two recommendations were received by the Secretariat as late as 24th November, 1969.

The Committee deeply regret to note the inordinate delay in furnishing the replies by the Government and reiterate that replies to important recommendations of the Committee should not be delayed without adequate reasons in future. As in such cases the Committee desires that in future the Government should take decision most expeditiously.



## **CHAPTER II**

### **RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation (Serial No. 1)**

It is seen that Oval Industries Inc., New York had not done any business in sulphur prior to the time the discussion was held between Muskat brothers and Chairman, S.T.C. in April, 1966. It is only as a result of this discussion that this firm took interest in sulphur and subsequently made an offer in August, 1966. As events proved, the supplies envisaged under the offer did not materialise.

(Paragraph 14)

#### **Reply of Government**

No comments.

[Ministry of Commerce O.M. No. 9/9/68-ST dated 18.3.1968.]

#### **Recommendation (Serial No. 8)**

Most of the contracts entered into by S.T.C. have been for one or two shiploads and the largest single contract has been for 60,000 tons. The contract for deliveries of 30,000 tonnes of sulphur every month for a year was six times bigger than the biggest contract that had ever been signed by S.T.C. That such large deliveries were considered "not impossible" and "not unrealistic" indicates that the Corporation had no clear idea of the sulphur trade and relied too much on representation of firms than on its own judgment about the availability of sulphur in the world market and the capacity of the party to fulfill the contract.

(Paragraph 42)

#### **Reply of Government**

With regard to the Committee's observations that the S.T.C. had no clear idea of the sulphur trade, it is submitted that S.T.C. was not a new comer to the sulphur trade, when they negotiated for the supply of 3,60,000 tonnes. They had imported between 1963 and 1965 approximately 1,30,000 tonnes from various sources. It is a fact that the largest single contract earlier handled by S.T.C. was for 60,000 tonnes. But it was only in 1966 that S.T.C. was asked to bring in sulphur in large quantities for the first time. Compared with the demand, the contract for 30,000 tonnes per month concluded by S.T.C. was not considered unrealistic. It may also be stated here that S.T.C. had subsequently (May—October, 1967) handled imports on an average of 30,000 tonnes per month.

However, the Corporation has been advised to take note of the Committee's observations for future guidance in dealing with large contracts

[Ministry of Commerce O.M. No. 9/9/68-S.T., dated 18.3.68.]

#### **Recommendation (Serial No. 9)**

The Committee feel that the stipulation under which S.T.C. agreed that the letter of credit would become operative on Oval Industries furnishing the performance bond was not enough because in the event of a default such a performance bond would not have enabled S.T.C. to recover the sum indemnified. Since S.T.C. had not done any business with the firm earlier, the Committee feel that by opening the letter of credit the Corporation took graver risk than was warranted by the circumstances of the case. In fact, if the contract had not been cancelled in time, the Corporation might have involved itself in avoidable litigation and loss of money.

(Paragraph 50)

#### **Reply of Government**

It is submitted that the action taken by the S.T.C. in opening a letter of credit without the performance bond having been furnished was once again motivated by the fear that the offer of supply might be withdrawn if this course of action was not resorted to. Supplies from normal sources were not forth-coming and S.T.C. having been made responsible for arranging the much needed sulphur, had assumed that by opening the letter of credit with the specific stipulation that it will become operative only on the performance bond being furnished no undue financial risk was involved. It is submitted that when the performance bond was not forthcoming and S.T.C. cancelled the Letter of Credit, the State Bank of India did not charge any Commission for opening the infructuous Letter of Credit. However, it is admitted that when S.T.C. went beyond its contractual obligations in opening a Letter of Credit before receipt of the performance bond, they could have re-assessed as a measure of caution the ability for guidance in their future transactions.

The Committee's observations have been conveyed to the S.T.C. for guidance in their future transactions.

[Ministry of Commerce O.M. No. 9/9/68-ST dated 18.3.1968.]

#### **Recommendation (Serial No. 10)**

The Committee are of the view that Oval Industries had made the offer to S.T.C. on the assurance of North and South Trust Co., that

it would be able to supply sulphur. The effort of Oval Industries to conclude this deal was in the nature of a speculation in a new line selected because Chairman, S.T.C. had indicated to that firm that India was searching for sulphur supplies. S.T.C. being aware of the background might have made proper investigations and enquiries from other sulphur suppliers and producers.

(Paragraph 56)

**Reply of Government**

Please see answer to S. No. (3).

[Ministry of Commerce O.M. No. 9/9/68-ST dated 18.3.1968.]

**Recommendation (Serial No. 11)**

The Committee suggest that the balance amount of Rs. 47,500 due from Oval Industries by way of compensation for the infructuous deal should be recovered early.

(Paragraph 58)

**Reply of Government**

The balance amount of Rs. 47,500/- has been remitted to S.T.C.

[Ministry of Commerce O.M. No. 9/9/68-ST. dated 20-3-1968.]

**Recommendation (Serial No. 13)**

On the question of STC's dealings with M/s. Amarjothi, the Committee's views are as follows:—

STC's officials had not proceeded in a cautious manner in dealing with this offer. Shri M. R. Dutt had been known to STC since April, 1966. He did not represent any firm in India or abroad in any official capacity. Reference to him as an 'associate' of Muskat brothers without any record to that effect is too vague to be relied upon for doing business with him by an institution owned by Government. STC's dealings with him have been only in his individual capacity. The Committee consider that the propriety of STC addressing communications to Shri M. R. Dutt who had no *locus standi* in the transaction at that stage needs to be examined. The letter dated 17th October, 1967 received from M/s. Oval Industries has obviously been procured by STC because during evidence before the Committee STC failed to establish his *locus standi*.

(Paragraph 73)

### Reply of Government

The Committee's observation that STC's officials had not proceeded in a cautious manner in dealing with this offer has been noted. This has been communicated to the STC for guidance of its officials.

As regards the propriety of STC addressing communications to Shri M. R. Dutt, it is submitted that even though he was not formally a partner of M/s. Amarjoyothi, he has been functioning *de facto* as the representative of M/s. Oval Industries in India. In this connection attention of the Committee is invited to the letter dated 17th January 1967, sent by Shri M. R. Dutt to the Chairman, STC, copy of which is enclosed, (See Appendix I) conveying the decision of M/s. Oval Industries to reimburse the Corporation the infructuous expenditure incurred by them to the extent of Rs. 75,000. This letter would lend force to STC's view that Shri M. R. Dutt was the party competent to act on behalf of M/s. Oval Industries in India. Having regard to the nature of relationship between the view that STC did not, in addressing communications to Shri M. R. Dutt, transgress the bounds of normal business prudence and propriety.

[Ministry of Commerce O.M. No. 9/9/68-S.T. dated 11-3-69.]

### Recommendation (Serial No. 14)

Some sugar mills in the country are using sulphur for refining purposes while others employ the carbonisation process which does not require sulphur. The Committee understand that the carbonisation process is slightly costly but the recovery of sugar is larger. Since there is world shortage of sulphur and it involves foreign exchange the Committee suggest that Government should induce the sugar mills that are using sulphur to switch over to the carbonisation process. Similar efforts should be made in other fields where substitution of sulphur is possible.

(Paragraph 82)

### Reply of Government

The Committee's observations have been noted and the authorities concerned have been requested to take appropriate action.

[Ministry of Commerce O.M. No. 9/9/68-ST dated 18-3-1968.]

### Recommendation (Serial No. 15)

The Committee are surprised how a matter which was considered at length by the Committee of Secretaries and their recommendations were to be placed before the Cabinet Sub-Committee could be by-passed by the Ministry of Commerce. There was a gap of about three weeks from the date of the meeting of the Committee of Secretaries and the date of issue of the canalisation order. The Committee cannot believe that new development could have taken place to such an extent as would justify issue of canalisation order immediately. In fact there is no evidence to support such a view. Even if any such urgency was felt, there was no difficulty in calling a meeting of the Cabinet Sub-Committee at the earliest possible opportunity instead of taking Minister was to have placed the matter before the Cabinet Sub-Committee at the earliest possible opportunity instead of taking an *ad hoc* decision overruling the recommendations of the Committee of Secretaries.

The Committee also find that the decision regarding canalisation was taken on the basis of oral representations received by the Minister of Commerce about the acute scarcity of sulphur. The order of the Minister communicated through the note dated 28th August, 1966 of Shri S. Ramachandran (Joint Secretary, Ministry of Commerce) does not indicate the intention behind the issue of the order or the basis for issue of such an order. The Committee regret to point out that the decision of the Minister which was based on "oral" representations received by him was ill-advised and not justified in the circumstances, especially in view of the fact that the policy regarding import of sulphur was discussed by the Committee of Secretaries only three weeks earlier and the matter was pending before the Cabinet Sub-Committee for decision. It should be considered whether as a safeguard it would not be proper to evolve a procedure that in such matters in future no final orders should be notified without the concurrence of the Cabinet. In other words, if any matter is pending before the Cabinet or a Cabinet Sub-Committee, any independent decision changing the existing policy should not be taken by a Minister till a decision has been given by the Sub-Committee or Cabinet.

(Paragraph 111)

### Reply of Government

The Committee's observations are under examination in consultation with the Cabinet Secretariat and a further reply will follow.

[Ministry of Commerce O.M. No. 9/9/68-ST dated 18-3-1968.]

### **Final Reply of Government**

The matter has since been considered by the Cabinet Secretariat and the following instructions have been reiterated for guidance.

Where a matter affects more than one Department, orders thereon should issue only after obtaining the concurrence of those Departments. The responsibility for ensuring compliance with these Rules is laid on the Secretary of the Ministry, as its administrative head. PM has directed that the Secretary should ensure that the Minister's attention is appropriately drawn to the procedural requirements of the consultation with the concerned Departments. The order in such cases should be issued only after obtaining the concurrence of the Departments concerned, *failing which the orders of the Cabinet/Cabinet Committee as the case may be, would have to be awaited.*

[Ministry of Foreign Trade D.O. No. 9/9/68-ST dated 24-11-69.]

### **Recommendation (Serial No. 17)**

The Committee find that the circumstances which led to the decision of the Minister of Commerce ordering canalisation are not known. They feel that Government should lay down a procedure making it incumbent on a Minister to record reasons where he orders reversal of policy without there being anything in writing before him, so that at any later date the intention behind the passing of such orders does not remain obscure.

(Paragraph 113)

### **Reply of Government**

The observations of the Committee are under consideration in consultation with the Cabinet Secretariat and a further communication will follow.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18-3-1968.]

### **Final Reply of Government**

The matter has since been considered by the Cabinet Secretariat. The following decision has been taken in the matter. The Prime Minister has, directed that the reasons for any order passed by the Minister, even if some of them happen to be political, would have to be briefly stated. To this end, it shall be the duty of the Secretary of the administrative Ministry to ensure that all previous papers are properly linked to establish the sequence before the issue of the orders. In case the sequence is not clear or the order

passed by the Minister is contrary to any previous order on the subject, the Secretary should bring the position to the notice of his Minister to facilitate resolution of any conflict which might have arisen and issue of such further directions as the Minister may give.

[Ministry of Foreign Trade, D.O. No. 9/9/68-ST, dated 24-11-1969.]

### **Recommendation (Serial No. 18)**

Upto the time of passing of the canalisation order STC had entered into sulphur contracts under a barter deal or Colombo Plan or USA Aid. In pursuance of Minister of Commerce's order, the Chief Controller of Imports and Exports, canalised all imports of sulphur through STC. No other written instructions were issued to STC to exclusively undertake this work. The Committee feel that the proper course for the Ministry would have been to issue a written direction to STC to undertake all future imports of sulphur and other commodities mentioned in the Notification issued by the Government in as much as this course of action was being imposed on STC. The Committee suggest that whenever Government desire a public undertaking to accept any responsibility or pursue any course of action which is beyond its normal course of business, they should issue written directions. This would enable a clear appreciation of the functions of an undertaking carried out in its own commercial judgement and these undertaken in accordance with the specific policy or direction of Government.

(Paragraph 114)

### **Reply of Government**

The Committee's observations have been noted.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18.3.1968./

### **Final Action of the Government**

The Administrative Reforms Commission had also, in their Report on Public Sector Undertakings, made the following recommendation which is almost identical to the C.P.U.'s recommendation above:

"Any suggestion from Government to a public undertaking asking it to act in a manner different from that dictated by economic considerations should invariably be in the shape of a formal directive and it should be duly brought out in the annual Report of the Undertaking."

This recommendation was considered by the Cabinet and its decision is as follows:—

**“It was agreed that, when Government considered it necessary to issue a directive to a public enterprise, it should be in writing; the issuance of the directive should also find a mention in the annual report of the enterprise concerned.”**

This decision has been circulated to all the Ministries by the Bureau of Public Enterprises *vide* their O.M. No. 2(90) '68-BPE(GM), dated the 28th September, 1968.

[Ministry of Commerce O.M. No. 9/9/68-S.T., dated 11.3.69.]

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

The Committee find that the note prepared by the Ministry of Industry was sent to the Ministry of Commerce on the 21st September, 1966. The Note put up to the Cabinet Sub-Committee was actually signed by the Secretary, Ministry of Industry on the 29th October, 1966. The Committee consider it highly regrettable that the Ministry of Commerce gave its concurrence without mentioning the fact that the Minister had in the meantime ordered canalisation of sulphur through STC. They fail to understand why this fact could not be brought to the notice of the Ministry of Industry at any time after 21st September, 1966 and before the meeting of the Cabinet Sub-Committee. It is no less surprising that other Ministries and especially the Ministries of Industry and Finance who had been processing the offers for supply of sulphur and knew the procurement policy for import of sulphur, also overlooked to mention such a basic change of policy.

(Paragraph 116)

#### **Recommendation (Serial No. 20)**

It seems that after the canalisation order was issued there was opposition from actual users and established importers and the general view of the Ministries was that in the prevailing position regarding supply of sulphur the canalisation order was inopportune. From what has been stated above, the Committee feel that the decisions taken by the Economic Secretaries at the meeting held on the 5th August, 1966 were incorporated in the note dated the 29th October, 1966 while the information regarding issue of canalisation order on the 27th August, 1966 was withheld. The Committee suggest that an enquiry should be made to find out how the concurrence of the Ministry of Commerce was given without mentioning



about canalisation of sulphur and responsibility fixed in the matter. The Committee are also not convinced that the information regarding canalisation was not deliberately withheld from the Sub-Committee. The proposed enquiry should, therefore, cover this aspect also.

(Paragraph 117)

### Reply of Government

On receipt of the Committee's recommendation, a Committee of Secretaries, consisting of Shri B. Sivaraman and Shri L. P. Singh was constituted to enquire into the matter. A copy of the Report submitted by the Enquiry Committee is enclosed. (See Appendix II) Government has accepted the conclusions arrived at by the Committee.

[Ministry of Commerce O.M. No. 9/9/68-S.T., dated 11.3.69.]

### Recommendation (Serial No. 21)

It is seen that for import of sulphur the country was depending upon monopoly suppliers in America acting through their two Indian agents i.e. M/s. Dharamsi Morarji & Co. and M/s. EID/Parry Ltd. who were working closely through their monopoly suppliers. When import of sulphur was canalised through STC in August, 1966, S.T.C. took initiative in contacting various foreign parties for supply of sulphur. The Corporation, however, found it impossible to break the ring of monopoly suppliers in USA/Canada who wanted to deal with their Indian agents directly and not through a State trading organisation in India. Thus, the advantage that was thought to accrue as a result of canalisation did not materialise and the expectations of supply of sulphur during the year 1967 became so uncertain that the policy of canalisation had to be reversed in January, 1967. This change of policy brought about under the pressure of foreign monopolists and their Indian agents did no credit to Government. This should be a lesson for the future. While adopting any such policy, proper steps and sufficient precautions should be taken to meet the challenge of Indian and foreign monopolists who might try to frustrate the efforts of a public undertaking.

(Paragraph 129)

### Reply of Government

The Committee's observation has been noted. It is, however, submitted that the changes in import policy on sulphur were made, after due consideration by the Government, and as the Government were

satisfied that the changes were necessary to ensure adequate supplies to Actual Users at a time when the world supply position was becoming increasingly tight.

[Ministry of Commerce O.M. No. 9 9/68-ST, dated 18-3-1968.]

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

It appears that there has been a general rise in export price of sulphur from the year 1965 onwards. The devaluation of the Indian rupee in June, 1966 has adversely affected the import costs. Thus the landed cost of sulphur had steeply increased from an average of Rs. 280 per tonne in 1965-66 to Rs. 537.18 in February, 1967, a rise of 90 per cent. It is also seen that commercial imports from non-traditional suppliers of sulphur cost much more than imports from traditional suppliers. The Committee feel that the Country's dependence on "spot" purchases, which cost more, should be reduced to the minimum. They, therefore, suggest that Government should examine entering into long term contracts with foreign suppliers to ensure a regular flow of imports at economical prices until such time as the indigenous sources of supply of sulphur as also use of alternative raw materials for fertiliser and other sulphur using industries are adequately developed. In choosing suppliers, dependence on one supplier or one group of suppliers should be avoided.

(Paragraph 139)

### **Reply of Government**

The Committee's observation have been noted. S.T.C. has already been instructed to enter into long-term commitments for supply of sulphur.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18.3.1968.]

### **Recommendation (Serial No. 23)**

The need for development of indigenous sources for production of sulphur and development of alternative sources of raw materials, with a view to achieve self-sufficiency and save scarce foreign exchange, cannot be over-emphasised. Hitherto in the schemes started for India's industrial development, the production of sulphur had not received special attention, probably because of limited requirements of the country and also easy availability of imports. Now

while the demand has been increasing, the imports, besides rise in price, have become uncertain. Government might direct its special attention to indigenous production of sulphur.

(Paragraph 141)

### **Reply of Government**

The Committee's recommendation has been noted and appropriate action is being taken.

[Ministry of Commerce, O.M. No. 9/9 68-ST, dated 18-3-1968.]

### **Further Reply of Government**

The observations made by the Committee have been noted. Government are already seized of the problem to develop indigenous sources of substitutes for sulphur viz. pyrites and sulphurous gases from non-ferrous metal smelters and to resort to alternative materials in respect of sulphur, where possible, in the production of phosphatic fertilizers.

[Vide Ministry of Petroleum & Chemicals, U.O. No. 113(5) 68, Fert. III, dated 10.4.1968.]

### **Recommendation (Serial No. 24)**

It is seen that the position regarding supply of sulphur for the year 1967-68 is not unsatisfactory. As regards future policy regarding import of sulphur, the Committee feel that in the interests of the country canalisation through a Government agency will be a desirable objective as it can result in purchases being made at economic prices. It would also avoid unhealthy competition among Indian buyers which is likely to arise in times of shortage and in a market where there are few sellers and too many buyers. However, the Committee are of the view that canalisation by S.T.C. should be resorted to only when it proves its capacity of importing sulphur regularly and in sufficient quantities at reasonable prices and wins the confidence of importers and actual users in India as also of foreign suppliers.

(Paragraph 147)

### **Reply of Government**

The Committee's observation has been noted.

[Ministry of Commerce, O.M. No. 9 9/68-ST, dated 18-3-1968.]

### CHAPTER III

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

### Recommendation (Serial No. 2)

The Committee find that in February, 1966, S.T.C. had been asked by Government to look into the possibilities of importing sulphur into India. There would, therefore, have been no objection in Chairman, S.T.C. enquiring about availability of sulphur from Embassies abroad or persons or firms established in the trade.

(Paragraph 15)

### Reply of Government

Early in 1966 it had become clear that normal methods for procuring sulphur would not be sufficient to meet the full requirements of the country. The Inter-Ministerial meeting held on 17th February, 1966 decided that the possibility of procuring some stray floating supplies from U.S.A./Mexico by making on the spot purchases should be investigated, and the S.T.C. was asked to formulate proposals in this regard. Therefore, the S.T.C. addressed itself to the task of finding supplies of sulphur not only from normal sources, but also of locating supplies wherever such a possibility seemed to exist. It is, therefore, submitted that S.T.C.'s action in contacting even firms not established in the trade appear to be justified in the context of the task entrusted to it.

[Ministry of Commerce, O.M. No. 9/9/68-ST, dated 18-3-1968.]

### Recommendation (Serial No. 3)

It is seen that the Secretaries of the Ministries of Finance, Industry and Agriculture knew that Oval Industries themselves were not mining sulphur nor were engaged in the sulphur trade. Most of the sulphur producers in U.S.A. were known in the trade circles. Offers of supply of sulphur from non-traditional sources had been in small quantities. Therefore the offer of any firm to supply 360,000 tons of sulphur over 12 months i.e. about 30,000 tons a month especially

from a firm which had not done any business in sulphur in the past, could raise doubts about the possibilities of such supplies materialising.

(Paragraph 18)

#### Reply of Government

It is submitted that in an unprecedently difficult situation where traditional suppliers of sulphur as well other known producers were not able or willing to offer the additional supplies which India urgently required, the possibility of securing substantial supplies lay in considering offers from others parties, even if such parties had not done any business in sulphur in the past. S.T.C. was fully aware of the fact that M/s. Oval Industries were new to sulphur trade. However, in the special situation of acute shortage which prevailed in the latter half of 1966, S.T.C. had to try chances of tapping even such new sources, subject of course to taking reasonable financial precautions and safeguards to ensure that no losses were incurred in the bargain.

[Ministry of Commerce, O.M. No. 9/9/68-S.T., dated 18-3-1968.]

#### Recommendation (Serial No. 4)

Considering the fact that Oval Industries as well as their agents in India M/s. Amarjyothi were fresh entrants in the sulphur trade and also considering the magnitude of the contract coupled with tight sulphur position in the world market, the Committee feel that before putting up the proposal to Finance Minister, the Secretaries of the Ministries concerned should have asked S.T.C. the basis on which it considered 30,000 tons of sulphur per month as genuine offer and one workable even for a major sulphur producer of the world.

(Paragraph 19)

#### Reply of Government

The Secretaries did not presumably go into the genuineness of the offer or the competence of the firm in regard to it. Since sulphur supply situation was an extremely difficult one, Secretaries were more concerned with meeting it. The offer of the firm appeared to constitute a possible solution. The firm agreed to satisfy the S.T.C. both in regard to sources and also its availability. It was also clear that suitable guarantees and warranties were to be obtained in regard to performance. The Secretaries therefore had no objection to S.T.C. entering into the contract in order to try out a new channel of import without running, in the process, any avoidable risk.

[Ministry of Commerce, O.M. No. 9/9/68-ST, dated 18-3-1968.]

**Recommendation (Serial No. 5)**

The Committee find that very little scrutiny was exercised by the S.T.C. and officers of the Ministries concerned on merits of the offer. The decision of the Secretaries concerned related to the acceptance of the offer at \$55 per ton which was higher than the rate at which purchases had been made previously. As regards the genuineness of the proposal, they had relied solely on the judgment of S.T.C. The Committee are of the view that the statement of the Secretary, Department of Economic Affairs that "the question has been discussed thoroughly by the concerned officers" was misleading in as much as no enquiries about the genuineness of the parties or the sources of their supplies were made by the concerned officers nor the S.T.C. deemed it fit to bring it to their notice that the transaction had developed at their initiative and that the Indian and American firms were new to the business.

(Paragraph 26)

**Reply of Government**

It is submitted that STC had exercised the scrutiny as appeared to have been practicable with regard to the offer of oval industries, ensuring at the same time that it did not take any liability as may expose it to financial burdens till the supplies under the contract started materialising.

The Committee seems to have taken the view that since the interest of STC in purchase of sulphur had been mentioned by Chairman, STC, to the Muskat brothers, chief executives of Oval Industries in April 1966, the offer made by Oval Industries should be deemed to have been developed at the initiative of the STC, and that this aspect should have been specifically brought to the notice of Committee of Secretaries. It is submitted that the Chairman's talk with the Muskat brothers about STC's interest in purchase of sulphur was similar to other instances where such interest was mentioned by the Chairman and the senior officers of the STC to other parties. In fact, STC had received several offers in pursuance of such talks by its officers and, therefore, STC appear to have taken the view that there was nothing unusual in the offer of Messrs. Oval Industries.

[Ministry of Commerce, O.M. No. 9/9/68-ST, dated 18-3-1968.]

**Recommendation (Serial No. 6)**

Inasmuch as Muskat brothers came in contact with S.T.C. for the first time in April, 1966 only and the supplies under the first

contract had not materialised, the Committee feel that the STC would have been well-advised not to have entered into a much bigger contract running into several crores with a firm then hardly known to it and which was proposing to enter a new line of business whose supply position was very difficult.

(Paragraph 32)

#### Reply of Government

The contract for leather footwear or components to be exported to USA was signed with the Muskat brothers in their capacity as agents of the Acme Boot Company of USA, one of the largest importers of footwear in that country. This served to establish reasonably the antecedents of the Muskat brothers. This export to USA, which was being developed for the first time, obviously had to take time to materialise in terms of actual deliveries from India because a great deal of preliminary technical and organisational work had to be done to produce goods conforming to buyers' technical specifications and get the samples approved before production for regular deliveries was embarked upon. Further, in the wake of the devaluation of the rupee in June, 1966 a serious setback was caused in the processing of supplies, because the Indian suppliers of the goods had suspended further fabrication of the goods and had asked for a revision of their rates. There could be no ground for concluding that the exports had not materialised till then due to any fault of the purchasers. That the Muskat brothers were new to the line of business relating to sulphur was not over-looked, but in the situation which then prevailed and which admitted the possibility of securing significant supplies of sulphur only from new and non-traditional sources, STC had no reason to doubt that Oval Industries which had been formed to enter into import and export business were not sincere about the offer made by them, or that under reasonably favourable conditions, they would not be able to procure the quantity of sulphur for which the contract was entered into with them.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18.3.1968.]

#### Recommendation (Serial No. 7)

It is noticed that although S.T.C. informed the Oval Industries on the 23rd August, 1966 about the acceptance of their offer it did not call for Dun and Bradstreet Report on the credentials of the firm till the 25th August, 1966. There is nothing to indicate that serious efforts were made to expedite receipt of reports before the signing of the contract on 7th September, 1966.

(Paragraph 37)

### Reply of Government

Even though the cable asking for D. & B. Report was sent only on 25th August, i.e. two days after informing the firm about the offer of acceptance, STC was making earnest efforts to expedite receipt of the Report before the signing of the contract. A Cable reminder was sent on 31st August. Before the signing of the contract on 7th September, 1966, a trunk call was made by the concerned officer of STC to Shri Varadarajan, General Manager, Handloom and Handicrafts Export Corporation which materialised at 2 A.M. on 7th September, 1966. In this trunk call certain particulars about Oval Industries as asked for by Shri Varadarajan were furnished to him to enable him to get the required report on Oval Industries. After the terms of the contract had been finally discussed and agreed to by mutual negotiation, the contract was signed on the 7th September, 1966, it being borne in mind that the performance bond which the firm would have to furnish under the contract would adequately safeguard STC's interest. STC's eagerness to sign the contract in anticipation of the status report appears to have been motivated by the anxiety on the part of S.T.C. to the effect that a possible source of supply might withdraw its offer, if the contract was not signed sufficiently early.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18.3.1968.]

### Recommendation (Serial No. 12)

Considering all aspects of the matter, the Committee are of the view that the entire deal was finalised with the good offices of Shri M. R. Dutt and Major Vipin K. Khanna and that the firm of M/s. Amarjyothi was set up as there was the possibility of earning a commission of over Rs. 11 lakhs on the sulphur contract. This view is strengthened by the following facts:—

- (i) Shri Dutt had been meeting S.T.C. officials in connection with the sulphur offer although he himself had no standing in the firm of M/s. Amarjyothi.
- (ii) The firm was created with Shrimati Dutt as one of the partners, as otherwise there was no necessity of creating a separate firm. M/s. D.S.S. Industries which was known to Shri Dutt had already been doing export-import business and the functions of M/s. Amarjyothi were not intended to be different.



- (iii) The Chairman, S.T.C. had met Muskat brothers in U.S.A. in April, 1966 and had mentioned India's sulphur requirements. The offer of Oval Industries would have normally been made to S.T.C. direct. Shri Dutt was acting as a channel between Muskat brothers and S.T.C. in connection with leather business and through his efforts the creation of M/s. Amarjyothi and its appointment as Indian agents later was made possible.
- (iv) The sulphur deal with S.T.C. was the first transaction negotiated by M/s. Amarjyothi and from the information supplied it can be presumed that this firm has not done any business of consequence ever since.

(Paragraph 72)

### Reply of Government

M/s. Amarjyothi as the Indian Agent of M/s. Oval Industries made the offer of sulphur to S.T.C. As there was nothing unusual in a foreign firm having an Indian agent, the S.T.C. accepted the offer made by M/s. Amarjyothi on behalf of their principals. It is submitted that in this case, the STC had verified the antecedents of the Indian Agents through the State Bank of India and the partners were certified to be reliable persons.

It is further submitted that other suppliers with whom STC has subsequently entered into contracts for supply of sulphur have also stipulated their Indian Agents. Such Agency arrangements are known to be a fairly common practice in sulphur trade.

It has been reported that M/s. Amarjyothi, immediately after their registration in July, 1966, had sent some trial consignments by air of semi-precious stones valued at Rs. 32,000. The sulphur deal, therefore, does not appear to have been their very first transaction.

Whatever might have been the motivation of the partners of M/s. Amarjyothi in forming this company, there seems to have been no departure from normal business practice on the part of the S.T.C. in dealing with them as the agents of the foreign suppliers.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18.3.1968.]

### Recommendation (Serial No. 16)

It is seen that the offer of M/s. Oval Industries for supply of 360,000 tonnes of sulphur was accepted on the 23rd August, 1966 and the decision of the Minister of Commerce for canalisation of sulphur was communicated on the 26th August, 1966. S.T.C. for some time

past had been in favour of canalisation as is seen from the minutes of the meeting held on the 5th August, 1966. The Committee, therefore, have a feeling that the prospects of large supplies materialising out of this offer influenced S.T.C. and in turn the Minister of Commerce, which led to the decision to canalise imports.

(Paragraph 112)

### **Reply of Government**

The decision to canalise imports of sulphur was taken by the Minister as that was considered by him the best course in the circumstances then prevailing regarding the supply position of sulphur.

[Ministry of Commerce O.M. No. 9/9/68-ST, dated 18.3.1968.]

**CHAPTER IV**

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

**NIL**

CHAPTER V

RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF  
GOVERNMENT ARE STILL AWAITED

Nil

M. B. RANA,  
Chairman,

Committee on Public Undertakings.

NEW DELHI ;

December 15, 1969

Agrahayana 24, 1891 (S)

PARLIAMENT LIBRARY  
(Library & Reference Service)  
Central Govt. Publications  
Acc. No. B....32209(5)  
Date.....1-1-70

## APPENDIX I

[Vide Reply to Recommendation (Serial No. 13)]

M. R. Dutt.

D-369, Defence Colony,  
New Delhi.  
January 17, 1967.

The Chairman,  
State Trading Corpn. of India Ltd.,  
New Delhi.

Dear Sir,

Please refer to your letter of Dec. 27, 1966 and the various subsequent discussions on the subject of amicable settlement of the claims, the STC may have against M/s. Oval Industries India Inc., New York.

You will kindly recall that I have already offered on behalf of M/s. Oval Industries Inc., to the STC during my discussions to reimburse such infructuous bank charges as the Corporation may have actually incurred. Your Corporation had insisted upon the minimum payment of Rs. 100000/- which after considerable negotiations was brought to a reduced figure of Rs. 75000/-. Immediately thereafter I have been in constant touch with the authorities of Oval Industries Inc., in New York and I am glad to confirm that they are agreeable to reimburse the STC all the infructuous bank charges and other expenses. They are also agreeable to make an outright payment of Rs. 75000/- even if the infructuous expenditure actually incurred by the STC comes to a smaller figure. This arrangement is accepted by way of full and final settlement of all the claims outstanding issues between the STC and Oval Industries Inc., New York, and on the understanding that Oval Industries Inc. will have the option to make a payment of upto two-third of the above amount in Indian currency by their associates.

I am instructed to emphasise once again that this arrangement has been agreed while completely disclaiming responsibility for the cancelation of the sulphur deal arrangements and only as a gesture of goodwill in an effort to retain the excellent business relations between the two organisations.

I have been asked to emphasise the above point very clearly with due importance which must be appreciated by you. I enclose with this letter the original letter of Oval Industries Inc., New York dated Dec. 6, 1966 which was received by me earlier and in which they have underlined this particular point but have limited the compromise to the reimbursement to the STC as stated above.

I trust that the above is found in order. Kindly confirm and oblige.

Yours faithfully,  
(Sd.) M. R. DUTT.

## APPENDIX II

[Vide Reply to Recommendation (Serial Nos. 19 and 20)]

*Report of the Enquiry Committee on the recommendation made by the Committee on Public Undertakings (4th Lok Sabha) in its 5th Report on the contract entered into by the State Trading Corporation of India Ltd., with M/s. Oval Industries Inc., New York, for import of sulphur. (Serial No. 20).*

1. The Committee on Public Undertakings (1967-68) (4th Lok Sabha) which enquired into the contract entered into by the State Trading Corporation with M/s. Oval Industries Inc., New York, for import of sulphur, had *inter-alia* made the following recommendation:

"It seems that after the canalisation order was issued there was opposition from actual users and established importers and the general view of the Ministries was that in the prevailing position regarding supply of sulphur, the canalisation order was inopportune. From what has been stated above, the Committee feel that the decisions taken by the Economic Secretaries at the meeting held on the 5th August 1966 were incorporated in the note dated the 29th October, 1966 while the information regarding issue of canalisation order on the 27th August, 1966 was withheld. The Committee suggest that an enquiry should be made to find out how the concurrence of the Ministry of Commerce was given without mentioning about canalisation of sulphur and responsibility fixed in the matter. The Committee are also not convinced that the information regarding canalisation was not deliberately withheld from the Sub-Committee. The proposed enquiry should, therefore, cover this aspect also."

2. Government decided that a Committee of Secretaries consisting of ourselves should conduct this inquiry. Shri K. N. R. Pillai, Under Secretary, Ministry of Commerce, acted as Secretary.

3. The Committee had three sittings—the first one on 8-5-1968, the second on 2-9-1968 and the third on 22-11-1968.

4. We examined the relevant files of the following organisations:

- (1) Ministry of Commerce.
- (2) Chief Controller of Imports & Exports.
- (3) State Trading Corporation of India Ltd.,
- (4) Min. of Industrial Dev. & Company Affairs.
- (5) Ministry of Petroleum & Chemicals.
- (6) Department of Economic Affairs.
- (7) Ministry of Food & Agriculture.

During the course of the enquiry we also obtained written clarifications from the Ministries/Departments concerned.

5. In 1966 there was a world shortage of sulphur and the supply position in India was very unsatisfactory. Even the traditional importers such as Dharmasi Morarji and E.I.D. Parry were not able to obtain adequate supplies. The S.T.C. was also importing sulphur but was finding it difficult to locate suppliers. It was, therefore, necessary to consider what steps should be taken to improve the position.

6. On 21-7-1966 the Economic Adviser to the Ministry of Industrial Development and Company Affairs prepared a note on the sulphur situation. This note was considered at a meeting of a Committee of Secretaries held on 5th August, 1966. The following officers were invited:

- (1) Secretary, Department of Agriculture.
- (2) Secretary, Department of Chemicals.
- (3) Secretary, Department of Co-ordination, Ministry of Finance.
- (4) Secretary, Ministry of Industry.
- (5) Secretary, Ministry of Commerce.
- (6) Economic Adviser, Ministry of Industry.

The Commerce Secretary did not attend this Meeting. However, Shri B. P. Patel, Chairman and Shri G. S. Sial, Director, S.T.C., attended the meeting even though they had not been specifically invited.



7. We enquired from Secretary, Ministry of Commerce:

- (i) whether the STC in any way represented the Ministry of Commerce at that meeting;
- (ii) whether he was kept informed by the STC of the decisions taken at the meeting and whether he was otherwise aware of the decisions; and
- (iii) whether within his knowledge the Commerce Minister was aware of these decisions.

A copy of the letter addressed to the Commerce Secretary is attached as Enclosure I.

8. In his written reply the Commerce Secretary, Shri K. B. Lall said that while the S.T.C. could not represent the Ministry, there may have been consultations between him and the Chairman of the S.T.C. before the latter attended the meeting. He had no recollection that the Chairman, S.T.C. had informed him about the conclusions reached at that meeting. He was also not aware whether the decisions were within the knowledge of the Commerce Minister. A copy of his reply is attached as Enclosure II.

9. We have noticed that there was inordinate delay in the circulation of the minutes. Though the meeting was held on 5th August, 1966, the minutes were not circulated till 6th October, 1966. We have further observed that a copy was not endorsed to the Ministry of Commerce, this was an unfortunate omission as the matter concerned the Ministry of Commerce, and the fact that the Commerce Secretary though invited had not attended the meeting could not be a good reason for not keeping the Commerce Ministry informed. A copy was sent to Shri Sial, Director, S.T.C., but there is no evidence to show that the S.T.C. sent a copy to the Ministry of Commerce.

10. It would appear from the evidence available that, possibly, the Ministry of Commerce were not aware of the decisions arrived at the Secretaries' Committee held on 5th August, 1966.

11. On 26th August, 1966, the Commerce Minister ordered that sulphur and the following other seven commodities should be canalised for import through the S.T.C.

- (1) Rock Phosphate
- (2) Potassium Chloride

- (3) Potassium Sulphate
- (4) Sodium Nitrate
- (5) Mercury
- (6) Newsprint
- (7) Asbestos.

A copy of the note recorded in this connection is attached as Enclosure III. Accordingly, a Public Notice was issued on 27th August, 1966 under which import of sulphur was canalised through the S.T.C. A copy of the Public Notice is attached as Enclosure IV. As is customary with the Office of the Chief Controller of Imports and Exports, this Public Notice was also published in the Gazette of India. Further, that Office had sent advance copies to as many as 27 offices of the Government of India, including the Ministries of Finance, Petroleum & Chemicals and Industry. The canalisation order had therefore, received very wide publicity and it has to be assumed that the organisations (including those outside the Government) interested in the import of sulphur were aware of the order. In fact, we observe from the records of the Ministry of Petroleum and Chemicals that the Fertiliser Association of India had, within a week of the issue of the order, protested to that Ministry against the canalisation of imports of sulphur.

12. We enquired from the Ministries concerned, what specific action was taken on the advance copy of the Public Notice received by them. The replies received indicate that the copy of the Notice was, by and large, dealt with in a routine manner and seen by officers who were not directly concerned with the events under discussion.

13. We consider that in future the C.C.I. & E. should as far as possible send advance copies of the Public Notices and other important documents direct to the officers concerned with the subjects, in addition to circulating them to organisations according to the standard list.

14. One of the decisions taken at the meeting of the Secretaries' Committee held on 5th August 1966 was that a note incorporating those decisions should be submitted to the Cabinet Sub-Committee on Industry. Accordingly the Economic Adviser to the Ministry of Industry prepared on 1st September 1966 a draft which was seen by the Department of Economic Affairs. He circulated the draft note to the Ministries of Commerce, Petroleum & Chemicals, Food & Agriculture and the Department of Economic Affairs.

15. We have carefully scrutinised the action taken by each of the Ministries concerned on receipt of the note.

**(i) Ministry of Commerce**

The Secretary received a copy on 23rd September, 1966, and at that stage itself he recommended approval of the proposals to the Commerce Minister without suggesting any change. The Commerce Minister gave his approval the same day, again without any change. The papers were then marked by the Secretary to the Joint Secretary in administrative charge of the State Trading Corporation and the Chief Controller of Imports and Exports. Both of them saw the orders of the Minister and Secretary and the Chief Controller of Imports and Exports conveyed to the Economic Adviser the Commerce Ministry's concurrence.

**(ii) Department of Economic Affairs**

They had seen the first draft prepared by the Economic Adviser. When the copy of the final draft was sent to them it was seen by the Director and the Secretary and cleared by them.

**(iii) Ministry of Food & Agriculture**

The note was seen by the Under Secretary, Deputy Secretary, Joint Secretary and the Secretary.

**(iv) Ministry of Industry**

The first draft prepared by the Economic Adviser and vetted by the Department of Economic Affairs was seen by the Secretary. After the concurrence of the concerned Ministries was received, the papers were seen by the Minister (Industry) and approved by him.

**(v) Ministry of Petroleum & Chemicals**

The draft note was seen by the Deputy Secretary, Secretary, Deputy Minister and the Minister of Petroleum and Chemicals.

16. The important stages at which the omission to mention the order of canalisation of import of sulphur occurred were (i) when the note was drafted and (ii) when the Commerce Ministry who had ordered canalisation saw the draft note and conveyed their concurrence without any comment.

17. We, therefore, enquired from Shri S. S. Marathe, Economic Adviser to the Ministry of Industrial Development and Company Affairs who had prepared the original draft, the reasons for the

omission to mention in the draft the order of canalisation. A copy of the communication addressed to him is attached as Enclosure V. In his reply he has said that he had prepared the first draft on or about 27th August, 1966 (the same date on which the Public Notice canalising import of sulphur was issued). At that time, he was not aware of the canalisation order. After receipt of the comments of the various Ministries, he merely incorporated those comments in the draft. When the final draft was prepared he overlooked the fact that by that time the Commerce Ministry had ordered canalisation. A copy of his reply is attached as Enclosure VI.

18. The Commerce Secretary he said (Enclosure II) that the omission to mention the canalisation order in the draft note was a pure oversight on his part. The Commerce Minister was aware of the policy current at that time. So were the Joint Secretary concerned with the S.T.C. and the C.C.I & E. who also saw the draft; apparently it did not occur to either of them to suggest to the Secretary and the Minister the necessity to make suitable changes.

19. It cannot be ruled out that at least a few of the officers who had scrutinised the draft in the Ministries would have been aware of the Public Notice which had received wide publicity. As we have mentioned in para 11, the fact of canalisation was specifically brought to the notice of the Ministry of Petroleum and Chemicals by the Fertiliser Association of India.

20. We have very carefully considered whether the Ministry of Commerce could have had any motive for deliberately keeping back information about the canalisation order from the Cabinet Sub-Committee. We can find no such motive. Inclusion of the information in the draft could not have made any material difference to the consideration of the issue, as the Ministry of Commerce were agreeing to the proposed arrangement which involved some modification of the canalisation order. In any case there was no secrecy about the canalisation order which had been published in the Official Gazette and communicated to a large number of Ministries, Departments, etc. The Ministry of Commerce could obviously not wish or expect to keep the Cabinet Sub-Committee in dark about a matter so widely notified.

21. We have considered the facts brought out during our enquiry and we have come to the following conclusions:

- (i) The omission of the Commerce Ministry to mention canalisation order in the draft note submitted to the Cabinet Sub-Committee was the result only of an oversight.

(ii) There is no ground whatever for thinking that the Commerce Ministry had deliberately withheld the information as we cannot find any reasonable motive for doing so.

(iii) The matter was not handled with due care.

Sd/-

(L. P. SINGH),

Secretary,

Min. of Home Affairs.

7.1.69.

Sd|- B. SIVARAMAN,

Cabinet Secretary.

7.1.69.

### Enclosure I

*Copy of letter No. 283/SPL/68, dated 5th September, 1968 from Shri B. Sivaraman, Secretary, Agriculture & Community Development, Ministry of F. & A. New Delhi, to Shri K. B. Lall, Secretary, Ministry of Commerce.*

As you know, L. P. Singh and I have been asked to look into the recommendation No. 20 of the Committee on Public Undertakings in the 5th Report on the Sulphur Deal by STC. There are some points, on which we require your help.

2. On the 5th August, 1966, a meeting was taken by the Secretary, Department of Economic Affairs, at which some basic decisions regarding the import Policy on sulphur were taken. We notice that you were invited to attend the meeting, but only Shri B. P. Patel and Shri Sial attended the same. Were they in any way representing Ministry of Commerce at this meeting?

3. We observe that a copy of the minutes was not circulated to the Ministry of Commerce even though a copy was sent to the STC. Was the Ministry of Commerce kept informed by the STC of the decisions taken or were you otherwise aware of the decisions at the meeting before the Commerce Minister ordered the canalisation of sulphur import through the STC?

4. We would also like to know whether within your knowledge the Minister was aware of the decision at the meeting of 5th August before he ordered the canalisation.

5. A copy of the draft note prepared by the Economic Adviser, Ministry of Industrial Development and Company Affairs for con-

sideration of the Cabinet Sub-Committee was sent to you for your comments. This draft did not indicate that the Ministry of Commerce had issued a notification canalising the import of sulphur. I have separately addressed Marathe for his comments on this omission. We would appreciate if you will please let us know the reasons for not amending the draft note to bring out specifically the fact that the Commerce Ministry had already issued canalisation order.

---

### Enclosure II

*Copy of D.O. No. 320-S (C)/68, dated the 24th September, 1968 from Shri K. B. Lall, Secretary, Min. of Commerce to Shri B. Sivaraman, Secretary, Department of Agriculture, New Delhi.*

Please refer to your d.o. letter No. 283/SPL/68, dated the 5th September, 1968, regarding recommendation No. 20 of the Committee on Public Undertakings in the 5th Report on the sulphur deal by STC.

2. At this distance of time, it is difficult for me to recall accurately the details of contribution, or the lack of it, to the evolution of Government's policy, during the period from August 5th to September 12, 1966, in respect of the import of sulphur.

I joined the Ministry on July 26 and was engaged, for the greater part of August and Sept., in picking up the threads of my new assignment. Over this period, as far as I can recall, my time was mostly devoted to re-structuring export policies and programmes in the wake of devaluation. The answers given in the succeeding paragraphs may kindly be viewed in the context of these circumstances.

As you have yourself pointed out, I did not attend the meeting taken by Secretary, Department of Economic Affairs on August 5th to consider the import policy for sulphur. I have no recollection of any discussion between Shri B. P. Patel and myself in regard to this meeting. Nevertheless, since Shri B. P. Patel had not been initially invited to this meeting, there must have been some consultation between him and myself before he attended the meeting in his capacity as Chairman of the State Trading Corporation. He could not represent the Ministry at this meeting.

I do not recall having had any discussion with Shri Patel in regard to the conclusions reached at the meeting of August 5th. I have tried to check from the records in the Ministry and also in the STC but I have not found any reference in the records to any discussion

having taken place between Mr. Patel and myself during the month of August in regard to this matter.

I am informed that the minutes of the inter-Ministerial meeting held on August 5th were issued only on October 6th, 1966, but I have no record of these minutes having been sent to or received in the Commerce Ministry.

I do not know whether the Commerce Minister was aware of the conclusions reached on August 5th when he decided on full-fledged canalisation (on Saturday August 25).

The draft prepared by Shri Marathe, on the basis of the conclusions reached by the inter-Ministerial meeting on August 5th, was seen by me in dak on September 23rd, 1966. While initialling this note for submission to the Commerce Minister the omission in it of any reference to the notification regarding full-fledged canalisation that had issued on August 27th did not strike me. It also did not occur to me that instead of dealing with this note in dak I should have the factual position checked by referring it to office.

The Commerce Minister initialled the note on September 24th, 1966 and marked it back to me on September 25th, 1966. In turn, I marked it in dak to the Joint Secretary concerned (Shri S. K. Mukherjee) and the Chief Controller of Imports (Shri Kasbekar). The Joint Secretary initialled the note on September 26th, 1966 and the Chief Controller of Imports conveyed Ministry's concurrence on September 29th, 1966.

The failure on the part of myself, the Commerce Minister, the Joint Secretary concerned, and the Chief Controller of Imports to detect the omission of any reference in the note to the decision to canalise the import of sulphur through the STC can only in retrospect be attributed to an oversight.

---

### Enclosure III

C.M. had asked me this morning to issue canalisation order for the eight items given in Flag 'A' given below. Accordingly a draft notification for publication in Gazette of India is put up for approval.

C.M. mentioned that he has already discussed this matter with Secretary.

Sd/- S. RAMACHANDRAN,

Secretary.

26.8.66.

Sd/- K. B. LALL,

26.8.66.

1. Rock Phosphate.
2. Potassium Chloride.
3. Potassium Sulphate.
4. Sodium Nitrate.
5. Mercury.
6. Sulphur.
7. Newsprint.
8. Asbestos.

---

**Enclosure IV**

(To be published in the Gazette of India Extraordinary Part I-  
Section I)

GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE  
IMPORT TRADE CONTROL

*Public Notice No. 124—ITC (PN)/66  
New Delhi, the 27th August, 1966.*

**SUBJECT:**—*Canalisation of Import of sulphur (S. No. 25/V) Potassium Chloride (S. No. 22.31/V) Newsprint (S. No. 44/V), asbestos raw (S. No. 98, V) and certain other items through an agency approved by Government for the period April 1966—March, 1967.*

Attention is invited to the list of items given in part 'C' of Section II of the Import Trade Control Policy (Red Book) for the period April 1966—March 1967, the import of which is canalised through an agency approved by Government.

2. It has now been decided that the import of the following items also will be canalised through an agency approved by Government:

- (1) Sulphur (S. No. 25/V).
- (2) Potassium Chloride (S. No. 22, 31/V).
- (3) Newsprint (S. No. 44/V).
- (4) Asbestos Raw (S. No. 98/V).



3. It has also been decided that the State Trading Corporation of India Ltd., New Delhi will be the approved agency for the import of the above mentioned items and also for the import of items namely, (i) Mercury (S. No. 266/IV), (ii) Caustic Soda (S. No. 22(a)/V), (iii) Soda Ash including calcined natural soda and manufactured sesquicarbonates (S. No. 26/V), (iv) Rock Phosphate (S. No. 40(a)/V), (v) Sodium Nitrate (S. No. 40(b)/V), (vi) Muriate of Potash (S. No. 40(c) (ii)/V), (vii) Sulphate of Potash (S. No. 40(c) (ii)/V) and (viii) Sulphate of Ammonia, Mineral Phosphate (S. No. 40(d)/V) whose imports have already been canalised *vide* Part 'C' of Section II of the Import Trade Control Policy (Red Book) for the period April 1966—March 1967).

Sd/- P. D. Kasbekar,  
Chief Controller of Imports and Exports.

Copy to all concerned,  
By order etc.

Sd/- S. R. Minocha,  
Deputy Chief Controller of Imports & Exports.

#### Enclosure V

*Copy of D.O. letter No. 282/SPL/68, dated 5th September, 1968 from Shri V. Sivaraman, Secretary, Agriculture and Community Development, New Delhi to Shri S. S. Marathe, Economic Adviser, Ministry of Ind. Development and Company Affairs, New Delhi.*

Pillai had, *vide* O.M. No. 24(3)/67-ST, dated the 15th May, 1968 informed you about the formation of a Committee of Secretaries to enquire into certain recommendations/observations made in the 5th Report of the Committee on Public Undertakings which enquired into the contract entered into by the S.T.C. with M/s. Oval Industries, New York.

2. On examination of the relevant files, we noticed that the note which was considered at the meeting held on the 5th August, 1966 under the chairmanship of the Secretary, Economic Affairs, was prepared by you. You had attended this meeting and a copy of the minutes was also sent to you. You were, therefore, fully aware of the decisions taken at that meeting. One of the major decisions was that the Ministry of Industry will prepare a note containing proposals agreed to at that meeting which will be submitted for approval of the Industry Sub-Committee of the Cabinet. On the 27th August 1966, the Ministry of Commerce issued a notification canalising the import

of sulphur through STC. We also find that the note for consideration of the Sub-Committee of the Cabinet was also prepared by you. In this note you had not mentioned that subsequent to the decision taken at the meeting held on the 5th August, 1966, the import of sulphur was canalised through STC. We would appreciate if you will let us know the reasons for this omission.

#### **Enclosure VI**

*Copy of D.O. No. 85/EA/68, dated 17th September, 1968 from Shri S. S. Marathe, Economic Adviser, Ministry of ID. & C.A., to Shri B. Sivaraman, Secretary, Agriculture & Community Development, New Delhi*

Kindly refer to your d.o No. 282/SPL/68, dated the 5th September, 1968.

2. I have checked up with paper available in my office and also consulted my colleagues, who had assisted me in the preparation of the notes. The events referred to in your letter occurred nearly two years ago at this stage, I can only try to recall, to the extent possible, the sequence of events. This is made somewhat more difficult because, unlike a Secretariat Section, my office does not (and indeed cannot) maintain proper files on various subjects, which are dealt with by me at one time or another.

3. The meeting in Economic Secretary's room was held on August 5, 1966, but a copy of the minutes was sent to me on October 6, 1966. My impression at the end of the meeting was that C. S. Krishna Moorthy, then Joint Secretary in the Department of Economic Affairs and I were to jointly prepare a note referred to in para 7. of the minutes. As Krishna Moorthy was away for a part of the time and because of other pre-occupations, there was some delay in preparing the draft. This is mentioned in my letter to Krishna Moorthy on September 1, forwarding the draft for his comments (copy enclosed).

4. The first draft of the note, which was forwarded to Krishna Moorthy on September 1, was dictated on or about August 27. Thereafter, the draft was given to the officer assisting me to fill in some of the figures and also to check up facts, etc. The draft was finalised on August 31 and issued on September 1. At the time of finalising the draft sent to Krishna Moorthy, I had not seen the Public Notice issued on Saturday, August 27.

5. When the note came back from Krishna Moorthy with his comments, I prepared a revised draft incorporating his comments, and this was put up for approval to Secretary (Industry) and was circu-

lated to the concerned Ministries for their comments on 21st September, 1966. These comments were received during the period September 29 (Comments from the CCI&E on behalf of the Ministry of Commerce) to October 19 (comments from the Ministry of Food & Agriculture). These comments were kept by the officer assisting me and he made the necessary additions/amendments and prepared the revised draft. Probably I would have checked only whether or not all the comments had been incorporated, and therefore, the revised draft was put up to Minister (Industry) for his approval. In this process, no reference to the notification of August 27, 1966 was incorporated in the revised draft because I must confess, the omission was overlooked by me.

*Copy of letter No. 111/EA/66, dated 1st September, 1966 from Shri S. S. Marathe, Economic Adviser, to Shri C. S. Krishna Moorthy, Joint Secretary of Finance (DEA), New Delhi.*

Kindly refer to your D.O. No. 3503-JSM/66 of August 20, regarding the paper to be prepared for the Committee of the Cabinet on the procurement policy in respect of sulphur.

2. It was our intention, as I recall, that we should jointly prepare the paper for the Committee of the Cabinet, but because of other pre-occupations and also because you were away for a few days we could not meet.

3. I am sending a draft which I have prepared. As Secretary (I) is away on tour abroad, I have not been able to show it to him. With such amendments as you may have, we will get the draft cleared in the Ministry of Commerce, Food & Agriculture, and the Department of Chemicals, and then submit the note for consideration by the Industry Committee of the Cabinet.

### APPENDIX III

(vide para 4 of Introduction)

*Analysis of the action taken by Government on recommendations contained in the Fifth Report of the Committee on Public Undertakings (Fourth Lok Sabha).*

I.	Total number of recommendations made . . . . .	24
II.	Recommendations that have been accepted by Government <i>vide</i> Sl. Nos. 1, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23 and 24.	
	Number . . . . .	16
	Percentage to total . . . . .	67%
III.	Recommendations which the Committee do not desire to pursue in view of Government's reply <i>vide</i> Sl. Nos. 2, 3, 4, 5, 6, 7, 12 and 16.	
	Number . . . . .	8
	Percentage to total . . . . .	33%
IV.	Recommendations in respect of which replies of Government have not been accepted by the Committee.	
	Number . . . . .	Nil
	Percentage to total . . . . .	Nil
V.	Recommendations in respect of which replies from Government are still awaited.	
	Number . . . . .	Nil
	Percentage to total . . . . .	Nil

---

© 1969 BY LOK SABHA SECRETARIAT.

PUBLISHED UNDER RULE 382 OF THE RULES OF PROCEDURE AND CONDUCT OF  
BUSINESS IN LOK SABHA (FIFTH EDITION) AND PRINTED BY THE GENERAL  
MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI.

---