

**COMMITTEE
ON
GOVERNMENT ASSURANCES
(1993-94)**

TENTH LOK SABHA

**NINETEENTH REPORT
ON
DROPPING OF ASSURANCES**

(Presented on 22.2.94)



सत्यमेव जयते

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33 LOK SABHA SECRETARIAT
NEW DELHI

February 10, 1993/Magha 21, 1915 (Saka)

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LOK SABHA

CORRIGENDA

to the Nineteenth Report of the Committee
on Government Assurances (1993-94)

(Tenth Lok Sabha)

Page No.	Para No.	Line No.	Correction
(i)	Chapter III	3	<u>add on May 14, 1993 after</u>
4	5	7	Shri Saifuddin Chaudhary, M.P. For April 28 read April 23
6	1.12	1	<u>For after examined</u>
4	2.8	1	<u>read after examining</u>
31	5	3	<u>For assurance read assurances</u>
34			<u>For with sincerity</u>
36		4	<u>read with sincerity</u>
37	6	5	<u>For assurances read assurance</u>
40	8	19	<u>For of Sanction 3(I) (C)</u>
		5	<u>read of Section 3(I) (C)</u>
		20	<u>For assurances read assurance</u>
		9	<u>For overtime petrol bill,</u>
		9	<u>read overtime, petrol bill,</u>
		30	<u>For Corpn/Cs.</u>
			<u>read Corporation/Companies</u>
			<u>For required read required</u>

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***COMPOSITION OF THE COMMITTEE ON
GOVERNMENT ASSURANCES (1992-93)**

CHAIRMAN

Dr. Laxminarain Pandey

MEMBERS

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3. Shri B. Devarajan
4. Smt. Saroj Dubey
5. Shri B.K. Gudadinni
6. Shri Prabhu Dayal Katheria
7. Shri Balin Kuli
8. Shri Manphool Singh
9. Shri Ajoy Mukhopadhyay
10. Shri Surendra Pal Pathak
11. Shrimati Pratibha Devisingh Patil
12. Shri Naval Kishore Rai
13. Dr. D. Venkateswara Rao
14. Shri A. Prathap Sai
15. Shri Chinmaya Nand Swami

SECRETARIAT

Dr. R.C. Bhardwaj	— <i>Additional Secretary</i>
Shri Murari Lal	— <i>Joint Secretary</i>
Shri Joginder Singh	— <i>Deputy Secretary</i>
Shri Ram Autar Ram	— <i>Under Secretary</i>

* The Committee was nominated by the Speaker w.e.f. 13 December, 1992 vide Para 1596 of Lok Sabha Bulletin Part-II, dated 14.12.1992.

***COMPOSITION OF THE COMMITTEE ON
GOVERNMENT ASSURANCES (1993-94)**

CHAIRMAN

Shri Basudeb Acharia

MEMBERS

2. Shri Vishveshwar Bhagat
3. Shri Gurcharan Singh Dadahoor
4. Prof. K. Venkatagiri Gowda
5. Shri P.P. Kaliaperumal
- @6. Maj. D.D. Khanoria
7. Shri Harpal Panwar
8. Shri Surendra Pal Pathak
9. Shrimati Suryakanta Patil
10. Shri V. Sreenivasa Prasad
11. Shri Nawal Kishore Rai
12. Shri G. Ganga Reddy
13. Shri Yoganand Saraswati
14. Shri Shibu Soren
15. Shri V.S. Vijayaraghavan

SECRETARIAT

1. Dr. R.C. Bhardwaj — *Additional Secretary*
2. Shri Murari Lal — *Joint Secretary*
3. Shri Joginder Singh — *Deputy Secretary*
4. Shri Ram Autar Ram — *Under Secretary*

* The Committee was nominated by the Speaker w.e.f. 13 December, 1993 vide Para 2609 of Lok Sabha Bulletin Part-II, dated 20.12.1993.

@Nominated to the Committee on 23 December, 1993 vide para 2628 of Lok Sabha Bulletin Part-II dated 23.12.93.

INTRODUCTION

I, the Chairman of the Committee on Government Assurances having been authorised by the Committee do present on their behalf, this Nineteenth Report of the Committee on Government Assurances.

2. The Committee (1993-94) was constituted on December 20, 1993.

3. The Committee at their sittings held on September 3, 1993 and November 8, 1993 considered requests (*vide* Memoranda Nos. 70, 71, 73, 74, 75, 76 and 77) received from the Ministries/Departments of the Government of India for dropping of pending assurances and their decisions are contained in this Report. At their sitting held on February 10, 1994, the Committee considered and adopted the draft Nineteenth Report.

4. The Minutes of the aforesaid sittings of the Committee form part of the Report (Appendices).

5. The conclusions/observations of the Committee are contained in this Report.

NEW DELHI;
February 10, 1994

Magha 21, 1915 (Saka)

BASUDEB ACHARIA,
Chairman,
Committee on Government Assurances.

CHAPTER I

(i) Investigations into Bofors Gun Deal

1. On 27 July, 1988, Prof. Madhu Dandavate and Shri Sharad Dighe, MPs addressed the following Starred Question No. 15 to the Minister of Defence:—

“(a) whether the attention of the Government has been drawn to “The Hindu” of June 22, 1988 publishing documents regarding alleged payment of commission in Howitzer deal;

(b) if so, whether Government have made inquiry into the documents published in “The Hindu”;

(c) if so, the findings of the inquiry; and

(d) the action taken against those found guilty?”

1.1 In reply to the above question the then Minister of Defence (Shri K.C. Pant) stated as follows:—

“(a) to (d): The Government has seen the material published in “The Hindu” dated 22nd June, 1988 purporting to relate to agreements concluded by M/s. Bofors with certain foreign and Indian firms and the alleged payments made by them to these firms. Necessary investigations into the published material have been ordered by the Government. The course of further action will be based on the results of these investigations.”

1.2 On February 27, 1988, Dr. A.K. Patel, M.P. addressed the following Unstarred Question No. 605 to the Minister of Defence:—

“(a) the tasks entrusted to CBI for investigation in connection with the documents published by “The Hindu” about the Howitzer gun deal with Bofors; and

(b) the details of the findings and the follow-up action taken in this regard.”

1.3 In reply to the above question, the then Minister of Defence (Shri K.C. Pant) stated as follows:—

“(a) the following tasks were entrusted to the CBI in the matter:—

(i) to investigate the authenticity of documents published in the Hindu.

(ii) to establish the identities of recipients of the alleged payments.

(iii) to ascertain whether any Indian received any part of these

alleged payments and, if so, the services for which these payments were made.

(iv) to determine whether any Indian laws have been violated.

(b) the enquiries by the CBI have not so far been completed."

1.4 On 24 July, 1989, Sarvashri Thampan Thomas and C. Janga Reddy, M.P.s addressed the following Starred Question No. 89 to the Minister of Defence:—

"(a) at what stage the investigation into Bofors Gun deal stands at present; and

(b) if the investigation is complete, findings of the enquiry and the follow-up action taken in this regard so far?"

1.5 In reply to the above question, the then Minister of Defence (Shri K.C. Pant) stated as follows:—

"(a) the investigations are still in progress.

(b) Does not arise."

1.6 The replies to (i) SQ No. 15 (ii) Part (b) of USQ 605 (iii) Part (a) of SQ 89 were treated as assurances which were required to be implemented by the Ministry of Defence within three months time from the date of the reply.

1.7 On 6 June, 1990 a request was received from the Minister of State in the Ministry of Defence *vide* D.O. Letter No. RRM/1968/F/90—for the dropping of the assurances on the following grounds:—

"All these 3 assurances relate to the 'BOFORS GUN DEAL. The position is well known and is under investigation by the competent authorities. As soon as reports of their investigating agencies become available, position would be made known to the Committee on Government Assurances. In view of this, these assurances may be treated as closed."

1.8 The Committee considered the request of the Ministry of Defence for the dropping of the aforesaid assurances at their sitting held on 29 June, 1990 and did not accede to the request of the Ministry. The decision of the Committee was accordingly conveyed to the Ministry.

1.9 The Committee made the following observations in their Eighth Report of the Ninth Lok Sabha presented to the House on January 4, 1991:—

"The Committee note that the progress made in investigation into the Bofors gun deal has not been satisfactory and has been badly delayed. The Committee recommend that special steps should be taken to complete the investigations in the matter expeditiously and these long pending assurances be fulfilled at the earliest. The Committee also desire that the Government should submit a

periodical report to the Committee regarding the progress made in the matter and the Government should seek extension of time minimum necessary to fulfill the assurances."

1.10 The Committee on Government Assurances (1991-92) also reviewed these assurances at their sitting held on December 27, 1991, and decided to pursue the subject matter.

1.10A The Minister of State in the Ministry of Defence again requested *vide* his D.O. Letter No.28(1)90D(GS-IV) dated July 31, 1993 for the dropping of these three assurances on the grounds indicated below:—

"Investigations in the Bofors case stand entrusted to the CBI which registered a Preliminary Enquiry in the matter on 8th November, 1988. An MOU was signed between Government of India and the Swiss Federal Government on 20th February, 1989, to provide mutual assistance in criminal matters. Thereafter, two letters Rogatory were sent to the Swiss authorities in February, 1989. Subsequently the CBI registered a Regular case on 22nd January, 1990.

2. The CBI took up the matter with the Swiss and Swedish authorities, seeking their assistance in the investigations. As a result of the CBI's efforts, the Swiss authorities froze certain Swiss Bank accounts on 26th January, 1990. A Letter Rogatory was issued by the Special Judge, Delhi on 7th February, 1990, which was presented to the Swiss authorities. The investigating Judges at Geneva and Zurich accepted the Letters Rogatory. Thereafter, appeals were filed by certain parties in the Cantonal Courts at Zurich and Geneva.

3. *Zurich*: The Cantonal Court at Zurich dismissed the Appeal filed before it. Consequently authorised signatories/beneficiaries of M/s A.E. Services Ltd., one of the recipients of payments from M/s Bofors, preferred an Appeal before the Federal Court of Switzerland. This Appeal was also dismissed on 13th November, 1990. Thereafter, on 13th December, 1990, the CBI received copies of the documents relating to the bank account of A.E. Services Ltd. maintained at Nordfinanz Bank, Zurich. These are being used for further investigations by the CBI.

4. *Sweden*: For the investigations in Sweden, Letter Rogatory was delivered to the Swedish authorities on 2nd April, 1990, seeking their assistance on 24th May, 1990 the Swedish authorities delivered to the CBI a complete copy of the report of the Swedish National Audit Bureau with the request that the classified portion thereof should be kept secret. It was conveyed to the Swedish Government on 26th May, 1990, that the Government of India intended to place the entire text of the aforesaid report before the Parliament. The Swedish Ambassador to India Conveyed that the Swedish Government had taken a serious view of

Government of India's position, as the classified portion of the report still remained secret under the Swedish Laws of Secrecy. The Swedish Government also emphasised that if the Government of India persisted in publicising the secret portion of the report, it would regard it as a serious breach of trust, which would undoubtedly affect the ability of Swedish Government to transmit other classified or sensitive documents to the Government of India, which had been asked for. The Government of India accordingly decided to honour its commitment.

5. After examined the Letters Rogatory, the Swedish Govt. communicated its decision, on 14th June, 1991, that it was not agreeable to reopening the preliminary investigations by Mr. Lara Ringberg, District Prosecutor, Stockholm. Subsequently, after discussion without Advocate at Stockholm, an Appeal was filed on 2nd March, 1992, against the aforesaid decision of the District Prosecutor. The Swedish Prosecutor General rejected the Appeal on 10th March, 1992, on the ground that no fresh facts had been brought forward to justify the reopening of the case. The matter was taken up again at diplomatic levels *vide* Note Verble dated 25.3.1992 of the Embassy of India, Stockholm to the Royal Ministry of Foreign Affairs, Stockholm for reconstruction of the Government of Sweden's decision of June, 1991. However the Government of Sweden *vide* decision dated 29.4.1992 rejected the request of the Government of India.

6. *Geneva*: Certain affected parties had filed appeals on 9th April, 1990, before the cantonal Court at Geneva against the blocking of certain accounts in Geneva. These cases bear relation to Court cases filed in India, which are referred to later. The Court at Geneva admitted the appeal and gave the CBI sixty days to rectify the deficiencies in the Letter Rogatory and as a provisional measure, continued the fresh on the accounts. The revised Letter Rogatory was furnished by the CBI to the Swiss authorities on 30th August, 1990 which was found to be in order by the trial judge on 19th September, 1990. Appeals were filled by certain affected parties against the said order. The Criminal Court of Appeal on the Canton of Geneva passed an order, on 23rd January, 1991, suspending the examination of the Letters Rogatory till the Indian Judicial authorities pronounced their decision.

7. *India*: In India, on 18th August, 1990, one Shri H.S. Chaudhary filed a Criminal Miscellaneous petition in the Delhi High Court, praying for quashing of the FIR in the Bofors case and the Letters Rogatory issued by Indian Courts. Certain political parties also implicated themselves in the aforesaid case, in the High Court. On 19th December, 1990, the Delhi High Court dismissed the petitions of Shri H.S. Chaudhary and other but took

cognizance *suo moto* of the case and issued notice to the CBI and the Union of India to show cause why the FIR may not be quashed.

8. Against the aforesaid order, eight Criminal Appeals and one Writ Petition were filed in the Supreme Court by various political parties, Shri H.S. Chaudhary, and the CBI/Union of India. These were decided by the Supreme Court *vide its* Order dated 27th August, 1991. All the Criminal appeals except that of the CBI were dismissed on the ground that the Appellants did not have a *locus standi*. While allowing the Appeal of the CBI, the Supreme Court held that the FIR and the issue of Letters Rogatory "remain unaffected and they can be proceeded with in accordance with law."

9. Immediately on the pronouncement of the aforesaid decision by the Supreme Court, the Swiss authorities were informed of the same, on 30th August, 1991, through our Embassy at Berne. Later, on 12th September, 1991, certified copies of the Supreme Court order were despatched by the CBI to our Embassy in Berne, for onward transmission to the Swiss authorities. Our Embassy communicated this order, alongwith its translation in French, to the Swiss Federal Department of Justice & Police, on 19th September, 1991, who in turn, transmitted it, on 23rd September, 1991, to the investigating Judge of Geneva, so that the judicial process could be resumed. The Swiss authorities were also kept apprised of later developments in the Indian Courts through letters of CBI dated 26.3.92, 8.4.92 and 24.4.92. It was reiterated in the letters that the subsequent petitions and judgements had left the Letters Rogatory unaffected.

10. Subsequent to the Supreme Court decision of 27th August, 1991 referred to earlier, further petitions were filed in Courts in India. On 12.9.91, Shri W.N. Chadha filed a Criminal Miscellaneous Petition in the Supreme Court of India, praying that the Supreme Court withhold its detailed judgement. This Petition was dismissed by the Supreme Court.

11. Shri W.N. Chadha also filed a Criminal Miscellaneous Petition in the Delhi High Court against the order of the Special Judge, Delhi rejecting his application for inspection of the court file. He also prayed for quashing of the arrest warrant issued against him and the cancellation of the 'Red Corner Notice' issued against him by the Interpol. This petition was decided by the Delhi High Court on 10.3.1992. The issue of arrest warrants against Shri W.N. Chadha and his request for inspection of Court file etc. have been rejected. An SLP

has been filed in the Supreme Court against this order. The matter has been admitted on 9.10.1992 for hearing.

12. Shri W.N. Chadha had also filed a Criminal Writ Petition against Union of India in Delhi High Court on 9.9.1991 praying for the quashing of the FIR and the proceedings and orders thereon including Letters Rogatory and also for restraining the CBI from proceeding further in the investigation. The Writ Petition was heard and decided on 2.9.1992. By this order, the Delhi High Court quashed the Letters Rogatory as well as the FIR in so far as it concerned Shri W.N. Chadha.

13. Against the aforesaid order, a Special Leave Petition was filed by the Union of India and CBI in the Supreme Court ordered on 4.9.1992. The Hon'ble Supreme Court ordered on 4.9.1992 that the impugned order passed by the Delhi High Court on 2.9.92 shall not be utilised before any Cantonal Court or authority for the purpose of obtaining release of any bank account which has been frozen or for the release or return of any information or documents till the SLPs are disposed of or till further orders. The Special Leave Petition was heard between 17.11.1992 and 25.11.1992 set aside the Judgement of Delhi High Court dated 2nd September 1992 quashing the Letters Rogatory and the FIR registered by the CBI against Mr. W.N. Chadha. CBI despatched fax messages containing the summary of the Supreme Court Judgement to the Swiss Federal Department of Justice and Police, the Indian Embassy in Switzerland and their lawyer. Marc Bonnant, on 17.12.1992 itself.

14. The Geneva Cantonal Court heard the matter on 15.1.1993 and pronounced its judgement on 29.1.1993 whereby all the objections raised against the Letters Rogatory by the affected parties were entirely dismissed and 30 days time granted to the affected parties to file an appeal in the Federal Court of Switzerland.

15. Seven appeals were filed by the affected parties in the Federal Court of Switzerland. The hearing in the aforesaid appeals have since been concluded and the decision is now awaited.

1.11 The Committee again considered the request of the Minister of State in the Ministry of Defence for the dropping of the aforesaid three assurances at their sitting held on September 3, 1993.

1.12 The Committee did not agree to drop the assurance. The decision of the Committee was accordingly conveyed to the Ministry of Defence for compliance.

1.13 The Ministry of Defence have sought extension of time upto December 31, 1994 to implement the assurance.

1.14 The Committee note that the Government have been making continuous efforts to investigate and finalise the matter regarding alleged payment of commissions in Howitzer gun deal which took place in 1987-88. The Committee find from the facts furnished by the Government that inspite of numerous hurdles, a lot of progress has been made in the matter by pursuing the matter by CBI etc. both at judicial and diplomatic levels. Now since the actions and interactions are on at the national and international levels, there is no point in giving up the matter in the middle.

1.15 The Committee do not appreciate the request of the Ministry of Defence for extension of time for full one year *i.e.* upto 31.12.94 for fulfilment of the assurance. The Committee desire that with the ceaseless and persistent efforts now being made by Government, the investigation should be completed and issue finalised within six months and as such the Committee grant an extension of time for six months in the first instance. The Committee trust that the Ministry of Defence would further intensify the efforts and see that the investigation is completed and issue decided with a view to implement the assurances within the extended period of six months.

(ii) *All India Judicial Service*

1.16 On December 13, 1991 the following Unstarred Question No. 3652 given notice of by Sarvashri P.C. Thomas and P.M. Sayeed, M.P.s, was addressed to the Minister of Law and Justice:—

- “(a) whether the Supreme Court has asked the Union Government to constitute an All India Judicial Service;
- (b) if so, the action taken by the Government in this regard; and
- (c) the time by which it is likely to be constituted?”

1.17 The then Minister of State in the Ministry of Law and Justice and Company Affairs and Parliamentary Affairs. (Shri P.R. Kumaramangalam) gave the following reply:—

“(a) to (c) Through a judgement delivered on 13.11.91 in response to Writ Petition No.1022 of 1989 filed by All India Judges' Association, the Supreme Court has desired that the Government of India should examine the feasibility of implementing the recommendations of the Law Commission for the setting up of an All India Judicial Service. In the portion relating to the summing up of this judgement, *the Supreme Court has given a direction that an All India Judicial Service should be set up and the Union of India should take appropriate steps in this regard.* The matter is being examined.”

1.18 Reply to the question was treated as an assurance by the Committee which was to be fulfilled within three months of the date of reply *i.e.* by March 12, 1992.

1.19 The Ministry of Law and Justice approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs *vide* their U.O. Note No.I/LCA(1)USQ 3652 LS-91 dated August 16, 1993, to drop the assurance on the grounds indicated below:—

“...that the Supreme Court of India, in writ Petition (Civil) No. 1022 of 1989 between All India Judges’ Association Vs. Union of India *vide* its judgement dt.13.11.1991 that an All India Judicial Service should be set up and the Union of India should take appropriate steps in this regard. In pursuance of the above directions, the Deptt. after seeking views/concurrence of concerned Ministries/Depts. submitted its proposal to the cabinet on 8th July, 1992. The Cabinet in its meeting held on 29th July, 1992, considered the proposal and deferred. Simultaneously, the Deptt. also had filed a review Petition in the Supreme Court. The case came up for final hearing on 19th March, 1993. *The Supreme Court, after hearing the case, reserved the Judgement.*”

1.20 The Committee considered the request of the Ministry of Law and Justice for dropping the assurance at their sitting held on September 3, 1993.

1.21 The Committee did not accede the request for dropping the assurance. The decision of the Committee was accordingly conveyed to the Ministry of Law and Justice for compliance.

1.22 The Ministry of Law and Justice sought extension of time first upto 13.3.1992, and thereafter upto 13.6.92, 13.9.92, 13.12.92, 13.3.93, 13.6.93, 13.9.93. The Ministry of Defence sought further extension of time upto December 13, 1993 and March 13, 1994 on the following grounds:—

“*That the matter relating to the creation of All India Judicial Service is still under consideration of the Government and it is not possible to indicate any specific time by which a final decision would be taken in the matter.*”

1.23 The Committee note the fact that while making a request to this August Committee to get the assurance dropped, the Ministry took plea that the Supreme Court of India had reserved their judgement on a review Petition filed by the Government of India/Ministry of Law and Justice in the final hearing made by that court on 19 March, 1993. In the subsequent requests made to the Committee for granting them extension of time, the Ministry have stated that ‘the matter relating to the creation of All India Judicial Service is still under consideration of the Government of India and it is not possible to indicate any specific time by which a final decision would be taken in the matter’. The averments made in the dropping request and while seeking extension of time from the Committee are different in nature. The Committee fail to understand as to which version

made by the Ministry is correct. The Committee feel that the Ministry is not serious enough about the issue and that the Government do not seem to be committed to what their Minister stated on the floor of the House in reply to the question of a Member of Parliament. The Committee do not but express their unhappiness over this attitude of the Union Government. The direction given by the Supreme Court on 13.11.1991 for setting up of All India Judicial Service should have been adhered to by Government. The Committee could welcome a negative decision rather than keep pending the issue indefinitely in the guise of the judgement that is kept in reserve by the apex court.

1.24 The Committee show their displeasure on the apathy of the Government on tackling of a simple issue and make it more complicated by not adopting a positive approach. The Committee trust that the Union Government would adhere to the direction given by the apex court and make concerted efforts to set up an All India Judicial Service for fulfilment of the cherished desires, and high hopes/aspirations of the people of the country.

CHAPTER II

(i) Rehabilitation Plan for Public Sector Drug Units.

2. On December 8, 1987 the following Unstarred Question No. 4644 given notice by Shri Thampan Thomas, M.P. was addressed to the Minister of Industry:—

- “(a) whether the rehabilitation plan has been implemented in respect of the three public sector drugs and chemical units;
- (b) if so, the details thereof; and
- (c) whether the Smith Stanistreet Pharmaceuticals Limited whose wage agreement has expired, has entered into a fresh agreement with the representative union?”

2.1 The then Minister of State in the Ministry of Industry (Department of Petrochemicals) (Shri R.K. Jaichandra Singh) gave the following reply:—

“(a) and (b): The Rehabilitation plans in respect of Bengal Chemicals and Pharmaceuticals Limited and Bengal Immunity Limited prepared by consultants are under consideration of the Industrial Reconstruction Bank of India. These consultants have not yet submitted Rehabilitation plan in respect of Smith Stanistreet Pharmaceuticals Limited.

(c): No, Sir.

2.2 Reply to parts (a) & (b) of the question was treated as an assurance by the Committee which was to be fulfilled within three months of the date of reply *i.e.* March 7, 1988.

2.3 The Ministry of Chemicals & Fertilizers approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. IX/CF(1)USQ 4644-LS/87 dated September 6, 1993, to drop the assurance on the grounds indicated below:—

“The situation relating to the revival of sick public sector undertakings in the pharmaceuticals Industry Sector has since undergone changes. With the amendment to the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA, 1985) in December, 1991, the Government Companies within the meaning of the Section 617 of the Companies Act, 1956, have also been brought under the purview of the said Act. Section 15(1) of the SICA, 1985, places an obligation on the part of the Management of an industrial undertaking which has been incurring cash losses

over two years, which has been in existence for 7 years or more and whose net worth is negative, to make a reference in the prescribed manner to the Board for Industrial and Financial Reconstruction (BIFR) for consideration of options about the future of the company. The public sector undertakings in the Pharmaceutical Industry Sector, namely, Indian Drugs & Pharmaceuticals Ltd. (IDPL), Bengal Immunity Ltd. (BIL), Bengal Chemicals & Pharmaceuticals Ltd. (BCPL) and Smith Stanistreet Pharmaceuticals Ltd. (SSPL) have, in compliance with the provisions of the SICA, 1985, made the reference to the BIFR. The BIFR has formally declared these companies as sick in terms of Section 3(1)(0) of the SICA, 1985.

The Revival Plan, jointly prepared by the management, officers' association and the workers' union of SSPL, was considered by the BIFR on the 22nd June, 1993. The BIFR has appointed the IRBI, Calcutta as the operating agency to go into the viability of the Revival Package. The BIFR has also directed that the Revival Package already prepared by the management should be submitted to the operation agency (IRBI). The Revival Package has been submitted to the operating agency by the SSPL management on 14.7.1993. The BIFR has directed that the promoters (Govt. of India) should communicate to the operating agency firm views on financial assistance and capital restructuring envisaged in the Revival Plan. Among other directions, one is that the operating agency will give a report on the viability of the package within a period of 90 days from 22.6.1993. The question financial assistance and capital restructuring is already under consideration of the Government and the firm views will be communicated after obtaining approval of the Cabinet Committee on Economic Affairs. The final analysis of the viability of the proposal will be done by the IRBI on behalf of the BIFR. The revival of the unit will depend on the report of the IRBI and the views of the BIFR to be taken on the basis of the report of the IRBI.

The Revival Package, prepared by the BCPL management, was considered by the BIFR on 24.6.93. The BIFR has directed the management to furnish additional information to the IRBI Calcutta, the operating agency on the viability aspect. It has also directed the promoters (Govt. of India) to communicate firm views on financial assistance and capital restructuring. The BIFR has *inter-alia* directed that the possibilities of forming workers' co-operative in respect of the unit may also be looked into. The BCPL management, alongwith the representatives of the unions and the officers' association, has prepared a revised revival plan and submitted it to the IRBI in July' 93. The revised revival plan envisages higher Financial assistance and capital restructuring. The

matters relating to the financial assistance and capital restructuring is already under consideration of the Government and views in this regard will be communicated to the IRBI.

The operating agency (IRBI) will make a final analysis of the viability of the unit and give a supplementary report to the BIFR in this regard. The revival of the unit will depend on the report of the IRBI on techno-economic viability and the views of the BIFR on the basis of the said report.

The Management of Bengal Immunity Ltd. alongwith the representatives of the workers and officers' association has prepared a revised revival plan and submitted it to the BIFR during the hearing held on 19.7.93. The BIFR has appointed the IRBI as the operating agency and at the same time asked the promoters (Govt. of India) to go into techno-economic viability of the revival plan and to confirm financial assistance and the extent of capital restructuring acceptable to the Government. The techno-economic analysis of the plan is being done by an expert group set up by this department. The question of financial assistance and capital restructuring has been taken up with the concerned authorities and the views of the promoters will be communicated to the IRBI shortly. The revival of the unit will depend upon the analysis by the operating agency (IRBI) of the revival package and the views of the BIFR based on the said report."

2.4 The Committee considered the request of the Ministry of Chemicals and Fertilizers for the dropping of the assurance at their sitting held on November 8, 1993.

2.5 The Committee did not agree to drop the assurance. The decision of the Committee was communicated to the Ministry for compliance.

2.6 Subsequently, the Ministry fulfilled the assurance by laying an implementation report on the Table of the Lok Sabha on December 6, 1993 *vide* SS No. XXXIV/Item No. 1. The implementation report reads as follows:

"The Revival package prepared by the Industrial Reconstruction Bank of India (IRBI), Calcutta, in respect of Smith Stanistreet Pharmaceuticals Ltd. (SSPL) was received in the first half of 1992. In the meantime, the management together with the workers 'Unions and Officers' Associations jointly prepared a Revival Plan for SSPL. With the amendment to the Sick Industrial Companies (Special Provisions) Act, 1985, Government companies within the meaning of Section 617 of the Companies Act, 1956 also came into

the purview of SICA, 1985 from December, 1991. Section 15(1) of the SICA, 1985 places an obligation on the part of the Board of Directors of a sick company to make a reference in the prescribed manner to the Board for Industrial & Financial Reconstruction (BIFR). The management of SSPL, therefore, made a reference in the prescribed manner to the BIFR in compliance with the provisions of law. In case of Bengal Chemicals and Pharmaceuticals Ltd. also the management made a reference to the BIFR in compliance with the provisions of Law. The management of Bengal Immunity Ltd. also made a reference to the BIFR in terms of the SICA, 1985. The Revival Package jointly prepared by the SSPL management was considered by the BIFR in the hearing held on the 21st December, 1992. The company was formally declared sick. The reference made by BCPL was considered by the BIFR on the 14th January, 1993. The company was formally declared sick by the BIFR. During the hearing, the BCPL management presented a revival package before the BIFR. The BIFR has, in the second hearing, appointed the IRBI, Calcutta, as the Operating Agency to look into the revival plan of SSPL and to give a report to the BIFR. In the case of BCPL also, the IRBI has been appointed as the Operating Agency and to give a report to the BIFR on the possibilities of revival of the undertaking. The reference made by BIL was considered by the BIFR on the 9th March, 1993. The company was formally declared sick. The BIL presented a revival package before the BIFR. After considering the package, the BIFR directed the management, *inter-alia*, to prepare a revival package on realistic estimates of fresh financial assistance envisaged from the promoters. In the second hearing held on the 19th July, 1993, the management presented a revised revival plan now prepared jointly with the workers' unions and the officers' associations. Upon considering the revival package, the BIFR appointed the IRBI, Calcutta as the Operating Agency and directed that the revival package together with the firm commitments on the financial assistance envisaged should be forwarded to the Operating Agency. The BIFR also directed the promoters to make a techno-economic analysis of the revival plan. The Operating Agency will go into the revival package and give a report on the viability of it to the BIFR. The BIFR is a quasi-judicial body, and any action regarding the revival of Smith Stanistreet Pharmaceuticals Ltd., Bengal Chemicals & Pharmaceuticals Ltd. and Bengal Immunity Ltd. will depend on the outcome of the deliberations of the BIFR. It would be difficult to indicate any immediate future course of action for these companies. In these circumstances, it is requested that the assurance may please be treated as fulfilled.

2.7 The Committee feel pleasure to note that the Ministry have fulfilled the assurance at last on December 6, 1993 by laying a statement on the

Table of the House. The Committee observe that the efforts of the Ministry of Chemicals and Fertilizers to get the assurance dropped were misguided one. The request for dropping should be made where unforeseen circumstances cropped up while implementing the assurance. Every time, the Committee have acceded to the request of the Ministry for granting them extension of time as and when this August Committee have been approached. Therefore, there was no point in making a request for the dropping of the assurance.

2.8 The Ministry of Parliamentary Affairs should also guide the Ministries/Departments concerned properly and direct them to implement the assurances by initiating action with sincerity, greater zeal and vigour. The Committee recommend that the practice of entertaining the requests for getting the assurances dropped on one ground or the other is not a healthy practice and should be discouraged by the Ministry of Parliamentary Affairs.

CHAPTER III

(i) *Assassination of Late Shri Rajiv Gandhi*

On May 14, 1993, Shri Saifuddin Choudhary, M.P. raised a point to know facts that DIG with the CBI (Shri R. Srikumar) was carrying some vital documents.....and that some Indian-looking ruffians really snatched it and had run away.

3.1 The Minister of Home Affairs (Shri-S.B. Chavan) gave the following reply:—

“I will have to go deep into the matter and try to find it out. Off hand, I may tell you that unless I ask the Director CBI, it will be difficult for me to say either way whether it is correct or not correct. I will definitely look into the matter and try to find out whether it has any effect on the trial which, in fact, started in Madras.”

3.2 Reply to the point raised was treated as an assurance by the Committee which was to be fulfilled within three months of the date of reply *i.e.* by August 13, 1993.

3.3 The Ministry of Home Affairs approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VI/HA(40) Point-raised LS/93 dated September 1, 1993, to drop the assurance on the grounds indicated below:—

“There is one point on which I would like to correct myself. This is about the CBI papers which were lost in London. Just now I got the information that no papers in connection with the investigations into the assassination of Shri Rajiv Gandhi were lost in London. Only a brief case containing travel and other personal papers of the Officer was lost.”

3.4 The Committee considered the request of the Ministry of Home Affairs for the dropping of the assurance at their sitting held on November 8, 1993.

3.5 The Committee decided to drop the assurance.

(ii) *Sub-Committees of National Development Council*

3.6 On April 23, 1993 the following Starred Question No. 781 given notice of by Sarvashri Sanat Kumar Mandal and George Fernandes, M.Ps. was addressed to the Minister of Planning and Programme Implementation:—

- “(a) whether the National Development Council has recently considered reports of its sub-committee on non-plan expenditure, literacy, population and employment;
- (b) the follow-up action taken particularly on the Austerity Committee's Report;
- (c) whether the Government have any proposal to explore/identify other areas where austerity measures can be taken; and
- (d) if so, the details thereof?”

3.7 The Minister of State in the Ministry of Planning & Programme Implementation (Shri Giridhar Gomango) gave the following reply:—

“(a&b) The National Development Council in its meeting held on April 5, 1993 considered the Report of the NDC Committee on Austerity. There was general endorsement of the recommendations of the Committee but it was decided that there was a need for wider consultation. It was decided that this exercise could be undertaken by the Planning Commission. The Council further decided to set up an NDC Committee on Power to make the State Electricity Boards economically *viable* by recasting tariffs, improving efficiency and considering delinking power distribution from generation. The setting up of NDC Committee on Power is in progress. Though the other three reports were also presented to the NDC, they could not be considered.

(c&d) The Government of India have been taking a number of measures for economy in expenditure. This is a continuous exercise”.

3.8 During the course of the supplementaries on the question Prof. K.V. Thomas, MP, referring to a letter from the Prime Minister's office a year ago to the effect that the use of telephone and cars should be restricted to the maximum extent, the Hon'ble Member enquired whether, after receipt of that letter, the expenditure had gone up or gone down and whether there was any monitoring machinery in the Ministry.

3.9 In reply to it, the Minister of State in the Ministry of Planning & Programme Implementation stated as follows:—

“I will have to collect the information Ministry-wise. I will submit the details after collecting the information.”

3.10 Reply to supplementary point raised by the Member on the question was treated as an assurance by the Committee which was to be fulfilled within three months of the date of reply *i.e.* by July 27, 1993.

3.11 The Ministry of Planning & Programme Implementation approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VI/PPI(5)SQ-781/LS/93 dated September 27, 1993, to drop the assurance on the grounds indicated below:—

“The Planning Commission in response to the promise made by the Minister to provide information Ministry-wise regarding the expenditure on telephones and cars and monitoring machinery in the Ministry on such expenditure etc. tried to get the information from the Department of Expenditure, Ministry of Finance, who have issued instructions with respect to economy in the use of telephones and cars. The Ministry have now brought to our notice that required information is not centrally maintained and it would be difficult to quantify savings due to economy instructions.

3.12 The Committee considered the request of the Ministry of Planning & Programme Implementation for dropping the assurance at their sitting held on November 8, 1993.

3.13 The Committee decided to drop the assurance.

(iii) *Houses for Fishermen*

3.14 On April 27, 1993 the following Unstarred Question No. 762 given notice of by Sarvashri T.J. Anjalose and Oscar Fernandes M.P.s was addressed to the Minister of Agriculture:—

- “(a) whether the Government have formulated any Centrally Sponsored Scheme for construction of Houses for the fishermen with ancillary civic amenities;
- (b) if so, the details thereof alongwith the States in which the scheme is likely to be launched; and
- (c) the amount allocated for this purpose during the current year, State-wise?”

3.15 The Minister of Agriculture (Dr. Balam Jakhar) gave the following reply:—

- “(a)&(b) Yes, Sir. The Government of India formulated a Centrally Sponsored Scheme for Development of Model Villages for Fishermen in 1986-87 and the Scheme is being continued now as a component of the enlarged Centrally Sponsored Scheme called “Welfare of fishermen.” The Scheme aims at developing model fishermen villages with a maximum of 100 houses, appropriate number of tube-wells, not exceeding five and one community hall at a maximum total cost of Rs. 37.5 lakh/village. The scheme is open to all States/UTs. 135 villages have been sanctioned since the inception of the scheme.

- (c) The outlay for 1993-94 is Rs. 327 lakh. No State-wise allocation of funds is made as the release depend on the request of the States/UTs based on their programme for development of villages, progress of implementation of the scheme and provision of matching contribution made in the respective State budget."

3.16 Reply to the supplementary points raised by the Member on the question was treated as an assurance by the Committee which was to be fulfilled within three months of the date of reply *i.e.* by July 26, 1993.

3.17 The Ministry of Agriculture approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VI/Agri.(37)SQ762-LS/93 dated September 1, 1993, to drop the assurance on the grounds indicated below:—

"Looking into the matter and taking up the same with the Ministry of Environment and Forests is dependent upon the request, which may or may not be received from any particular State.

The Statement of the Minister of State for Agriculture, it may be appreciated, purported to convey that the Ministry of Agriculture would examine the request of any individual State approaching it for obtaining exemption from environmental ban and if found justified, would take up the matter with the Ministry of Environment and Forests. That is why the statement mentions the conditions vary from State to State. but there may be circumstances existing in individual locations, in individual States where exemptions from the environment ban may be obtained.

The Statement also does not imply that Ministry of Agriculture, as such, sees any justification for lifting the ban or at least for relaxing the ban for settlement of Fishermen within 500 metres of the sea-shore in general."

3.18 The Committee considered the request of the Ministry of Agriculture for dropping the assurance at their sitting held on November 8, 1993.

3.19 The Committee decided to drop the assurance.

(iv) *National Port Authority*

3.20 On September 6, 1991, the following Unstarred Question No. 5900 given notice of by Shri Sushil Chandra Verma, M.P. was addressed to the Minister of Surface Transport:—

"(a) whether the Government propose to set up a National Port/ Authority as an apex body for Port Trusts which are proposed to be converted into companies;

(b) if so, the details thereof and advantages envisaged over the existing set up; and

(c) by what time such companies and authority are expected to be operational?"

3.21 The Minister of State in the Ministry of Surface Transport (Shri Jagdish Tytler) gave the following reply:—

“(a)&(b): A proposal to convert port trusts into Corporate form of management such as companies of Corporations under the overall supervision of the Government is under consideration. It is envisaged that such a set up will give commercial orientation and also more autonomy to the major ports.

(c): As no final view has been taken no time limit can be set.”

3.22 Reply to part(c) of the question was treated as an assurance by the Committee which was to be fulfilled within three months of the date of reply *i.e.* by December 5, 1991.

3.23 The Ministry of Surface Transport approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. I/ST(18) USQ 5900-LS/93 dated September 23, 1993, to drop the assurance on the grounds indicated below:—

“The Committee on Government assurances during its discussion held on 5-2-93 at Visakhapatnam opined that a proposal to drop the assurance may be sent if there is going to be delay in fulfilling the assurance.

The proposal to convert present port trust Boards into Corpn./Cos. is still under examination of the Government and is at the stage of preparing a draft Cabinet Note. After the finalisation of the Draft Cabinet Note the matter would be required to be referred to the Ministry of Finance/Law etc. Thereafter the approval of the Cabinet would be required, before moving a Bill in the Parliament for setting up of companies/corporations. It is likely to take considerable time before a final decision is arrived at. A background note fully explaining the case is as under:—

“The Ministry of Surface Transport had mooted a proposal in May, 1988 to create a centralised authority like National Ports Authority by an Act of Parliament which will assume overall responsibility for the activities of the Major Ports which are brought under it. The need for structural changes in the organisation and administration of the port trust has been under consideration or of different Committees and authorities from time to time. The Estimates Committee in their 32nd Report strongly recommended the setting up of a *Centralised Ports Authority*. The recommendations of Major Ports Reforms Committee having a bearing on the structural changes in the administration of Port Trusts were considered by an Empowered Committee under the Chairmanship of Secretary (SFT).

The Chairman of the Major Ports were also invited to express their views on the subject. Divergent views were expressed on the proposal and no consensus emerged. On the one hand, it was felt that the National Ports Authority would have the advantage of pooling of manpower resources and financial resources of the Ports Sector. It was also felt that such an authority would build up a centralised capability in the formulation of plans and designs for the projects in the Ports Sector. As the Major Ports are separate autonomous organisations, the only organisation which at present can achieve a measure of coordination among them is the Ministry. But, a Ministry is perhaps not the best organisation to achieve the desired measures of coordination among the different Major Ports. A compelling need was, therefore, felt to have a high level professional organisation which will oversee the operations of the various ports and also formulate the plans and programmes of the future developments of this sector. Under the existing set up, the Ports are managed by a Board of Trustees appointed under the provisions of Major Port Trusts Act, 1963. Apart from the various Government. Departments, interests such as ship owners, owners of sailing vessels, shippers and trade unions are represented on the Port Trust Board. Once the non-officials are appointed, they are beholden only to the sectional interests and they have no enforceable responsibility towards Government nor they can be held accountable by the Government despite the fact that all property, assets and funds of the port are vested in the Board of Trustees. It is worth noting that nowhere outside the Ports Sector has the Government adopted the organisational form of Board of Trustees for any organisation engaged in economic activity of a substantial nature.

In spite of clear advantages in favour of National Ports Authority mentioned above, the concept has not won ready acceptance from all the quarters. It is felt that integration of personnel of all major Ports will throw up a lot of problems because of the existing differences in work norms, incentive payments, allowances, etc. It was felt that the premise that a unified authority will strengthen the management and help the units to become economically viable is some what far fetched because bigger an organisation, more difficult it will be to manage it. It was also felt that the healthy units may find their growth aspirations snapped by the need to cater to the ports in deficit. A fear was also expressed that the National Ports Authority, will in effect, only become a 5th wheel without bringing about any basic change in the style of functioning of either the port trusts or the Ministry.

After examining the pros and cons of the proposal, the Ministry had sent a Cabinet Note for obtaining the Cabinet approval. The cabinet desired that the proposal may in the first instance be considered by the Committee of Secretaries.

The Committee of Secretaries held a number of meetings in this regard. In the last meeting held on 3.4.1991 the Committee agreed that the present form of the Board of Trustees as envisaged in the major Port Trusts Act is not an appropriate form of Management of Major Ports and should be converted into a corporate form of management such as a Company or a Corporation. They have, therefore, suggested that a Ports Corporation Act may be considered which may *inter-alia* provide for each port having a separate corporate entity and port steering Committee to meet the needs of coordination, planning and designing of projects and pooling of funds and equipment for better utilisation of the available resources for the overall development of the Ports Sector. The Committee have also recommended setting up of a Ports Development Fund under the proposed legislation to which the surplus funds and other miscellaneous income may be pooled for the development of ports as a whole. In view of the recommendation of C.O.S., the proposal to set up National Ports Authority has been dropped. Separately a proposal to set up Port Corporation is under consideration of the Government."

The proposal to convert Ports into Corporations envisages the following:—

- (i) The Port Trust Boards will be replaced by a Board of Directors who will be under the overall supervision of Government and the Port Trust will be in the form of a Corporation under a new Act to be enacted *viz.* Port Corporation Act.
- (ii) The Board of Directors will have full powers to make appointments up to Board level on the same line as obtaining in respect of Public Sector Undertakings (PSUs).
- (iii) The Board of Directors shall have full powers in respect of fixation/revision of rates.
- (iv) The Board of Directors shall have powers to delegate either to the Managing Director or any other Director or any office of the Corporation, such of its powers and functions without any reference to the Central. The Board of Directors shall have powers to incur expenditure on projects as per the BFE guidelines in respect of PSUs.

- (v) A Port Development Funds will be provided where the surplus funds of the Ports are pooled in a separate fund and the moneys in the Port Development Fund can be utilised by the Central Government for the purpose of maintaining and development of the Major Ports in the Country.

The various implications involved in converting ports into Corporations have been studied. While on the one hand, there will be advantages like greater autonomy by such conversion, there will also be some disadvantages like tax liability. Presently, Port Trusts are exempt from the purview of Income Tax, as they are considered as local authorities. If the ports are converted into Corporations, they will not be able to enjoy this benefit and such liability would be very heavy. It has, therefore, been proposed that such conversion, if approved can in the first instance be applied to smaller ports like Tuticorin and New Mangalore or newly formed Ports.

A draft Cabinet Note has been prepared for the purpose of conversion of ports into Corporations. After it is finalised and approval of the competent authority is obtained, it is required to be circulated to various other Government Departments like the Ministry of Finance, Bureau of Public Enterprises, Department of Personnel, Ministry of Law and Justice, etc. After the concurrence/comments of these Ministries are obtained, the same are required to be incorporated in the draft Cabinet Note and Cabinet approached for approval. After the same is approved, a Bill will have to be prepared in consultation with the Ministry of Law and Justice and introduced in the Parliament for the purpose of enactment of the Port Corporation act. As the entire process is likely to take some time, a proposal is being made for dropping the assurance."

3.24 The Committee considered the request of the Ministry of Surface Transport for dropping the assurance at their sitting held on November 8, 1993.

3.25 The Committee decided to drop the assurance.

(v) *Development of Captive Ports for Transportation of Coal.*

3.26 On April 6, 1989 the following Starred Question No. 514 given notice of by Sarvashri Srikanta Dutta Narasimharaja Wadiyar and C. Madhav Reddy, MPs was addressed to the Minister of Surface Transport:—

“(a) Whether Government have a proposal to develop captive ports for the transportation of coal to the Central coastal thermal power station;

- (b) if so, the details of the captive ports proposed to be developed initially;
- (c) whether any foreign companies have been engaged therefor;
- (d) if so, the details of those foreign companies, amount proposed to be spent on the study etc.; and
- (e) the details of the programme of Government in this regard?"

3.27 The Minister of State in the Ministry of Surface Transport (Shri Rajesh Pilot) gave the following reply:—

"(a) & (b) A proposal for the development of captive port facilities for the proposed thermal power stations of the National Thermal Power Corporation at Kayamkulam in Kerala and Nandikur in Karnataka has been received.

(c) No foreign company has been engaged for the above captive ports.

(d) Does not arise.

(e) it is proposed to commission a detailed feasibility study under the *Indo-Dutch Bilateral programme regarding the development of captive ports as well as other alternative facilities.*"

3.28 During the course of Supplementaries on the Question Shri Kantha Datta Narasimaraaja Sriadiyar, MP, raised the point, highlighting that when a proposal for the development of captive port facilities for the proposed thermal power stations of the National Thermal Power Corporation at Kayamkulam in Kerala and Nandikur in Karnataka has been received, what is the estimated cost of the proposed projects and what action the Hon'ble Minister proposed to take to expedite the same in view of the severe power shortages in both these States and what action does the Minister contemplate to assist in the development of the proposed captive ports in the States?

3.29 The Minister of the State in the Ministry of Surface Transport stated as follow:—

"Keeping in view the coal requirement and the future power generation in the Country, the Central Electricity Board Authority has proposed 13 locations in the country for setting up Thermal Stations and these two locations one in Kayamkulam in Kerala and other at Nandikur in Karnataka have been taken up by the N.T.P.C. and the proposals are in progress for the final decision of the Government."

3.30 Another Member Shri C. Madhav Reddy also desired to know about transmission losses occurred when power was transported from Ramagundam to Tamilnadu or Kerala. A proposal was made by him that there should be a captive port not only at the unloading point, but also at

the loading point so that the coal could be transported by sea which was cheaper. The Member also wanted to know how soon the Government of India was going to take this up and whether this Indo-Dutch bilateral programme includes a definite project report to be prepared by the authority and if so by what time the proposal is likely to be submitted.

3.31 In reply to it the Minister of State in the Ministry of Surface Transport made the following statement:—

“We also have plan in coordination with the Power Ministry to create facilities in a captive form for the ports in the mines and also transportation to the ports. At the moment we selected these two sites, they are in the final stage and we are likely to include them as early as possible.”

3.32 Reply to the Questions were treated as an assurances by the Committee which were to be fulfilled within three months of the date of reply i.e. by July 6, 1989.

3.33 The Ministry of Surface Transport approached the Committee on Government Assurances through the Ministry of Parliamentary Affairs vide their U.O. Note No. XIII/ST/SQ 514-LS/89 dated January 11, 1993 to drop the assurance on the grounds indicated below:—

“It may be stated that the Ministry of Energy (Deptt. of Power) have not yet obtained an investment decision regarding setting up of thermal power stations. So far as development of captive ports is concerned, the Dutch Consultants are expected to furnish their feasibility report only by the end of 1993. Thereafter, it will take another year or so before a project proposal is formulated and an investment decision is obtained in view of the protracted procedure for consultation with the appraising agencies and obtaining approval of PIB/CCEA. Further owing to drastic reduction in the plan outlay proposed in 8th plan 1992-97 for ports sector, it has not been possible to include this project in 8th plan 1992—97.”

3.34 The Committee considered the request of the Ministry of Surface Transport for dropping the assurance at their sitting held on November 8, 1993.

3.35 The Committee decided to drop the both assurances.

(vi) *Development Board to remove regional imbalance.*

3.36 On November 25, 1991, the following Starred Question No. 58 given notice of by Shri Rajendra Agnihotri M.P., was addressed to the Minister of Home Affairs:—

“(a) Whether Government propose to set up a development board to remove regional imbalances in the country;

(b) if so, the details thereof; and

(c) if not, the reasons therefor and the other measures Government propose to take in this regard?"

3.37 The Minister of Home Affairs (Shri S. B. Chavan) gave the following reply:—

“(a) to (c) : Article 371(2) of the Constitution envisages special responsibility of the Governor for the establishment of *separate development boards for Vidarbha, Marathwada and the rest of Maharashtra, and Saurashtra, Kutch and the rest of Gujarat*. No development boards have been set up so far. The proposals sent by the Government of Maharashtra are under examination.”

3.38 On December 2, 1991, the following Starred Question No. 143 given notice of by Sarvashri Simon Marandi and Govinda Chandra Munda, M.P., was addressed to the Minister of Home Affairs:—

“(a) Whether there is any *demand to set up Jharkhand State* by including the tribal areas of Bihar, Orissa and West Bengal for the speedy development of the tribal areas and speedy implementation of several projects of these areas;

(b) if so, the details of the action taken thereon;

(c) the difficulties, if any, in this regard; and

(d) the time by which the Jharkhand State is likely to be set up?”

3.39 The Minister of Home Affairs (Shri S.B. Chavan) gave the following reply:—

“(a) Yes, sir.

(b), (c) & (d): The Central Government had set up a Committee for Jharkhand matters in August, 1989. The Committee's report was received in May, 1990. However, the Committee could not reach unanimity. Thereafter, a Review Committee was set up in November, 1990 but this Committee also could not make much progress in its deliberations. *The matter is under consideration of the Government.*”

3.40 On December 2, 1991, the following Unstarred Question No. 1719 given notice of by Shri Sharad Dighe, M.P., was addressed to the Minister of Home Affairs:—

“(a) whether the Government propose to set up Statutory Development Boards for Vidarbha, Marathwada and rest of Maharashtra without curtailing the powers of the State Government;

(b) if so, by when; and

(c) whether the Government also propose to set-up such Board for Western Maharashtra and Konkan?"

3.41 The then Minister of State in the Ministry of Home Affairs (Shri M.M. Jacob) gave the following reply:—

(a) to (c): The Government of Maharashtra have sent proposals at different points of time for setting up of Development Boards for Vidarbha, Marathwada and the rest of Maharashtra in terms of article 371(2) of the Constitution and a separate Development Boards for Konkan after amending this article for this purposes. This require in-depth examination from different angles, including legal and constitutional before a final decision is taken."

3.42 On April 23, 1992, the following Starred Question No. 730 given notice of by Sārvashri Dharmanna Mondayya Sadul and Pandurang Pundlik Fundkar, M.P.s was addressed to the Minister of Home Affairs:—

"(a) whether he discussed the issue of setting up of Statutory Boards for Vidarbha, Marathwada and Konkan with the Chief Minister of Maharashtra recently;

(b) if so, the outcome of the talks; and

(c) the decision taken in regard thereto?"

3.43 The Minister of Home Affairs (Shri S.B. Chavan) gave the following reply:—

"(a) Yes, Sir.

(b) & (c) The legal and constitutional aspects relating to the setting up of Development Boards are under examination."

3.44 On July, 9, 1992, the following Starred Question No. 27 given notice of by Shri Mukul Wasnik, M.P., was addressed to the Minister of Home Affairs:—

"(a) whether the indepth examination of the proposal submitted by the Government of Maharashtra regarding the establishment of separate Development Boards for Vidarbha, Marathwada and Konkan regions has since been completed;

(b) if so, the details thereof and further action proposed to be taken in the matter; and

(c) if not, the reasons thereof and when the examination of the proposal is likely to be completed?"

3.45 The Minister of Home Affairs (Shri S.B. Chavan) gave the following reply:—

"(a), (b) & (c): The proposal is still under examination. It is not possible to indicate any time-frame for a final decision at the stage."

3.46 On July 9, 1992, the following Starred Question No. 28 given notice of by Major General (Retd.) Bhuwan Chandra Khanduri, M.P., was addressed to the Minister of Home Affairs:—

- “(a) whether the Union Government have since examined the proposal submitted by the Government of Uttar Pradesh regarding the *creation of separate Uttaranchal State*;
- (b) if so, the views of the Union Government thereof;
- (c) whether it is proposed to convene a meeting of the elected representatives to discuss the issue; and
- (d) if so, the details thereof?”

3.47 The Minister of Home Affairs (Shri S.B. Chavan) gave the following reply:—

- “(a) & (b) The matter is under examination.
- (c) No, Sir.
- (d) Does not arise.”

3.48 On November 26, 1992, the following Unstarred Question No. 514 given notice of by Shri Bhuvaneshwar Prasad Mehta & nine other M.P.s was addressed to the Minister of Home Affairs:—

- “(a) whether the round of talks with all concerned regarding Jharkhand issue has completed;
- (b) if so, the unanimous view expressed by them in this regard;
- (c) the final decision arrived at; and
- (d) the time by which it is likely to be announced?”

3.49 The then Minister of State in the Ministry of Home Affairs (Shri M.M. Jacob) gave the following reply:—

- “(a), (b) & (c): A number of discussions were held with various political parties, groups and organisations to ascertain their views on the Jharkhand issue. No unanimous conclusion emerged from these discussions. *The matter is still under examination.* Further discussions on this subject with concerned parties and organisations may also become necessary at a later date. No definite time frame for final decision can, therefore, be indicated at this stage.”

3.50 On November 26, 1992, the following Unstarred Question No. 519 given notice of by Major General (Retd.) Bhuwan Chandra Khanduri and Shri Jeevan Sharma, M.Ps. was addressed to the Minister of Home Affairs:—

- “(a) whether the Union Government have completed its examination of the proposal and the detailed justification sent by the Government of Uttar Pradesh with regard to creation of Uttaranchal State; and
- (b) if so, the reaction of the Government thereto?

3.51 The then Minister of State in the Ministry of Home Affairs (Shri M.M. Jacob) gave the following reply:—

- “(a) The matter is under examination.
 (b) Does not arise.”

3.52 The replies given to all these questions were treated as assurances and were required to be implemented by the Ministry of Home Affairs within three months from the date of the assurance was given.

3.53 The Minister of Home Affairs *vide* his D.O. Letter No. 16011/3/93SR dated August 17, 1993 has requested to drop all these *eight assurances* on the following grounds:—

“There are eight pending Parliamentary Assurances relating to the Jharkhand problem, the demand for a separate State of Uttaranchal, and the proposal for the establishment of Autonomous Development Boards in Maharashtra. While action has been in progress in respect of each of these subjects, it is not practically possible for the Government to arrive at conclusive decisions in such matters within envisaged time frames.

2. As you know, the Government has consistently been against the creation of new States, especially so in the prevailing sensitive situation. Nurturing local aspirations through autonomous arrangements is an evolving process, which can not be contained within preconceived time frames for obvious reasons.

3. For example the Jharkhand matter is being regularly discussed with the Government of Bihar and the Jharkhand movement leaders about the arrangements necessary and possible for the establishment of a Jharkhand Area Development Council. In view of the widely variant perceptions, it will necessarily take time to forge a consensus in the matter.

Likewise, it will take time for ideas to crystalise about the need for and the extent of autonomous arrangement in respect of the proposed Uttaranchal. At any rate, such issues cannot be settled in the absence of a popular Government in the State.

As regards Development Boards in Maharashtra, the matter has not registered any progress because of the dichotomy between the perceptions of popular Government and the Constitutional provision in Article 371(2), about vesting the Governor with ‘special responsibilities’ outside the purview of the Council of Ministers, in respect of the Development Boards. Here, again, the problem does not lend itself to any easy solution.

4. In the aforesaid context, it is our considered view that it would not serve any particular purpose to indefinitely keep pending the assurances. I, may, however assure you that even after these

assurances are dropped, these matters will continue to receive our continuous and utmost attention. As soon as final decisions are arrived at, we will inform the Hon'ble Members concerned as also the Lok Sabha."

3.54 The Committee considered the request of the Minister of Home Affairs for dropping of the assurances at their sitting held on November 8, 1993.

3.55 The Committee agreed to drop all these eight assurances.

MINUTES

Tenth Sitting

Minutes of the Tenth Sitting of the Committee on Government Assurances held on September 3, 1993 in Committee Room 'D', Parliament House Annexe, New Delhi.

The Committee met on Friday, September 3, 1993 from 15.00 hours to 16.10 hours.

PRESENT

Dr. Laxminarain Pandey — *Chairman*

MEMBERS

2. Shri B. Devarajan
3. Shri Prabhu Dayal Katheria
4. Shri Balin Kuli
5. Shri Ajoy Mukhopadhyay
6. Shri Surendra Pal Pathak
7. Shri Chinmayanand Swami

SECRETARIAT

Dr. R. C. Bhardwaj	— <i>Additional Secretary</i>
Shri Murari Lal	— <i>Joint Secretary</i>
Shri Joginder Singh	— <i>Deputy Secretary</i>
Shri K. K. Ganguly	— <i>Deputy Secretary</i>

2. The Committee took up for consideration Memoranda Nos. 69, 70 and 71 regarding request from Government for dropping of assurances.

Memorandum No. 70: Request for dropping of assurances given on:—

- (i) 27 July, 1988, in reply to Starred Question No. 15 regarding documents published in the Hindu regarding alleged payment of commissions in Howitzer deal.
- (ii) 27 February, 1989 in reply to Unstarred Question No. 605 regarding C.B.I. Investigation in Bofors Gun deal.
- (iii) 24 July, 1989, in reply to Starred Question No. 89 regarding investigation into Bofors Gun Deal.

4. The Committee considered the request of the Minister of State in the Ministry of Defence *vide* D.O. letter No. 28(1)/90/D(GS-IV) dated July 31, 1993 for (confidential)*

dropping of the above three pending assurances.

4.1 The Committee noted that on July 6, 1990 also a similar request for dropping of these assurances was made by the then State Minister in the Ministry of Defence which was considered by the Committee (1990-91) and decided not to accede to the request of the Ministry. The observations made by the Committee were contained in the Eighth Report of Ninth Lok Sabha which reads as follows:—

“The Committee note that the progress made in investigations into the Bofors gun deal has not been satisfactory and has been badly delayed. The Committee recommend that special steps should be taken to complete the investigations in the matter expeditiously and these long pending assurances be fulfilled at the earliest. The Committee also desire that the Government should submit a periodical report to the Committee regarding the progress made in the matter and the Government should seek extension of time minimum necessary to fulfil the assurance.”

4.2 After considering the contents of the D.O. letter of the State Minister in Ministry of Defence, the Committee were of the view that the grounds advanced by the Ministry for dropping of these assurances were merely a detailed report on the progress made in the matter and decided not to drop these three assurances. The Committee, however, agreed to grant extension of time as sought by the Ministry. *upto December 31, 1994.*

Memorandum No. 71: Request for dropping of the assurance given on December 13, 1991 in reply to Unstarred Question No. 3652 regarding All India Judicial Service.

5. The Committee considered the request of the Ministry of Law and Justice received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. II/LCA(1) USQ 3652/LS-91, dated August 16, 1993 for the dropping of the assurances on the following grounds:—

“...that the Supreme Court of India, in Writ Petition (Civil) No. 1022 of 1989. between All India Judges' Association *vs.* Union of India and other Commended to the Union of India *vide* its judgement dt. 13.11.1991 that ‘an All India Judicial Service should be set up and the Union of India should take appropriate steps in this regard’. In pursuance of the above directions, the Deptt., after seeking views/concurrence of concerned Ministries/Depts. submitted its proposal

* Not incorporated being confidential.

to the cabinet on 8th July, 1992. The Cabinet in its meeting held on 29th July, 1992, reconsidered the proposal and deferred. Simultaneously, the Deptt. also had filed a Review Petition in the Supreme Court. The case came up for final hearing on 19th March 1993. The Supreme Court, after hearing the case, reserved the Judgement."

5.1 The Committee were of the view that the Supreme Court Judgement in the matter was bound to come sooner or later. Not convinced with the reasons advanced for dropping of the assurance, the Committee decided to pursue the assurance further.

6. Thereafter, the Chairman apprised the Committee about the kind permission granted to the Committee by the Hon'ble Speaker to undertake an on-the-spot visit to two States, namely, Rajasthan and Madhya Pradesh during October, 1993 to ascertain the progress made in implementation of certain pending assurances. The Committee decided to assemble at Udaipur on October 4, 1993 and disperse at Bhopal on October 11, 1993.

7. The Committee also decided to meet again at Delhi on October 4, 1993.

8. *The Committee then adjourned.*

MINUTES

Twelfth Sitting

Minutes of the sittings of the Committee on Government Assurances held on November 8, 1993 in Committee Room No. 62, Parliament House, New Delhi.

The Committee met on Monday, November 8, 1993 from 15.00 hours to 16.00 hours.

PRESENT

Dr. Laxminarain Pandey — *Chairman*

MEMBERS

2. Shri B. Devarajan
3. Shri B.K. Gudadinni
4. Shri Balin Kuli
5. Shri Ajoy Mukhopadhyay
6. Shri Surendra Pal Pathak
7. Smt. Pratibha Devi Singh Patil
8. Shri Naval Kishore Rai

SECRETARIAT

Shri Joginder Singh — *Deputy Secretary*

Shri Ram Autar Ram — *Under Secretary*

2. The Committee took up for consideration Memorandum No. 72 regarding treating as assurance the Statement of the Minister of the Railways given on the floor of the house on July 25, 1991 and Memoranda Nos. 73, 74, 75, 76, 77, 78 and 79 regarding requests from Government for dropping of the assurances.

Memorandum No. 73 : Request for dropping of the assurance given on December 8, 1987, in reply to Unstarred Question No. 4644 regarding rehabilitation plan for public sector drug units.

4. The Committee considered the request of the Ministry of Chemicals and Fertilizers received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. IX/C F(1) USQ-4644-LS/87 dated September 6, 1993 for the dropping of the assurance on the following grounds:—

“The situation relating to the revival of sick public sector undertakings in the pharmaceutical industry sector has since

undergone changes. With the amendment to the sick Industrial Companies (Special Provisions) Act, 1985 (SICA, 1985) in December, 1991 the Government companies within the meaning of the Section 617 of the companies -Act, 1956, have also been brought under the purview of the said Act. Section 15(1) of the SICA, 1985 places an obligation the part of the management of an industrial undertaking which has been incurring cash losses over two years, which has been in existence for 7 years of more and whose net worth is negative, to make a reference in the prescribed manner to the Board for Industrial and Financial Reconstruction (BIFR) for consideration of options about the future of the company. The public sector undertakings in the Pharmaceuticals Industry Sector, namely, Indian Drugs & Pharmaceuticals Ltd. (IDPL), Bengal Immunity Ltd. (BIL), Bengal Chemicals & Pharmaceuticals Ltd. (BCPL) and Smith Stanistreet Pharmaceuticals Ltd. (SSPL) have in compliance with the provisions of the SICA, 1985, made the references to the BIFR. The BIFR has formally declared these companies as sick in terms of Sanction 3(1) (0) of the SICA, 1985.

The revival plan, jointly prepared by the management, officers association and the workers' union of SSPL, was considered by the BIFR on the 22nd June, 1993. The BIFR has appointed the IRBI, Calcutta as the operating agency to go into the viability of the Revival Package. The BIFR has also directed that the Revival Package already prepared by the Management should be submitted to the operating agency (IRBI). The Revival Package has been submitted to the operating agency by the SSPL management on 14.7.1993. The BIFR has directed that the promoters (Govt. of India) should communicate to the operating agency firm views on financial assistance and capital restructuring envisaged in the revival plan. Among other directions, one is that the operating agency will give a report on the viability of the package within a period of 90 days from 22.6.1993. The question of financial assistance and capital restructuring is already under consideration of the Government and the firm view will be communicated after obtaining approval of the Cabinet committee on Economic Affaris. The final analysis of the viability of the proposal will be done by the IRBI on behalf of the BIFR. The revival of the unit will depend on the report of the IRBI and the views of the BIFR to be taken on the basis of the report of the IRBI.

The Revival Package, prepared by the BCPL management, was considered by the BIFR on 24.6.1993. The BIFR has directed the management to furnish additional information to the IRBI, Calcutta, the operating agency on the viability aspect. It has also directed the promoters (Govt. of India) to communicate firm views on financial assistance and capital restructuring. The BIFR has

inter-alia directed that the possibilities of forming workers co-operative in respect of the unit may also be looked into. The BCPL management, along with the representatives of the unions and the officers association, has prepared a revised revival plan and submitted it to the IRBI in July, 93. The revised revival plan envisages higher financial assistance and capital restructuring. The matter relating to the financial assistance and capital restructuring is already under consideration of the Government and views in this regard will be communicated to the IRBI. The operating agency (IRBI) will make a final analysis of the viability of the unit and give a supplementary report to the BIFR in this regard. The revival of the unit will depend on the report of the IRBI on techno-economic viability and the views of the BIFR on the basis of the said report.

The Management of Bengal Immunity Ltd. along with the representatives of the workers and officers' association has prepared a revised revival plan and submitted it to the BIFR during the hearing held on 19-7-93. The BIFR has appointed the IRBI as the operating agency and at the same time asked the promoters (Govt. of India) to go into techno-economic viability of the revival plan and to confirm financial assistance and the extent of capital restructuring acceptable to the Government. The techno-economic analysis of the plan is being done by an expert group set up by this department. The question of financial assistance and capital restructuring has been taken up with the concerned authorities and the views of the promoters will be communicated to the IRBI shortly. The revival of the unit will depend upon the analysis by the operating agency (IRBI) of the revival package and the views of the BIFR based on the said report."

4.1 The Committee did not accede to the request of the Ministry of Chemicals and Fertilizers to drop the assurance and decided to pursue the matter. The Committee granted extension of time sought by the Ministry upto March 7, 1994.

Memorandum No. 74 : Request for dropping of the assurance given in reply to a point raised by Shri Saifuddin Chaudhry, MP regarding one man Commission of Enquiry headed by Justice Shri J.S. Verma, regarding assassination of late Shri Rajiv Gandhi, Ex. Prime Minister of India.

5. The Committee considered the request of the Ministry of Home Affairs received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VI/HA (40) point raised —LS/93 dated September 1, 1993 for the dropping of the assurance on the following grounds:—

"There is one point on which I would like to correct himself. This is about the CBI papers which were lost in London. Just now I got the information that no papers in connection with the

investigations into the assassination of Shri Rajiv Gandhi were lost in London. Only a brief case containing travel and other personal papers of the Officer was lost."

5.1 The Committee decided to drop the assurance.

Memorandum No. 75 : Request for dropping of the assurances given on April 28, 1993, in reply to Starred Question No. 781 regarding Sub-Committee of National Development Council.

6. The Committee considered the request of the Ministry of Planning and Programme Implementation received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VIPPI(5) SQ-781/LS93 dated September 27, 1993 for the dropping of the assurance on the following grounds:

"The Planning Commission in response to the promise made by the Minister to provide information Ministry-wise regarding the expenditure on telephones and cars and monitoring machinery in the Ministry on such expenditure etc. tried to get the information from the Department of expenditure, Ministry of Finance, who have issued instructions with respect to economy in the use of telephones and cars. The Ministry have now brought to our notice that required information is not centrally maintained and it would be difficult to quantify savings due to economy instructions.

...

...

...

It has been found difficult to quantify financial impact on economy measures on cars and telephones as the rates and tariffs have gone up substantially during the intervening period even though some economy/measures are effected to reduce the expenditure. For example in case of use of cars, the maintenance of salary of regular employees, their overtime petrol bill, regular hiring charges of scooter/taxis, hiring of scooter/taxis by officers on tour etc. are maintained in separate accounts like salary and overtime. Further the hiring rates are different over a period of time and varies from city to city. So the Financial impact out of the measures taken to reduce the use of cars will have to be studied in a detailed way. Such studies at different places and different points of time throughout India has not been conducted uniformly and information has not been collected at the central level."

6.1 The Committee finally decided to drop the assurance but did not appreciate the way in which a categorical assurance was given by the Minister on the floor of the house without calculating the volume of work involved in collecting the information.

Memorandum No. 76 : Request for dropping of the assurance given on April 27, 1993, in reply to Starred Question No. 762 regarding houses for fisherman.

7. The Committee considered the request of the Ministry of Agriculture received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VI/Agri. (37) SQ 762-LS93 dated September, 1993 for the dropping of the assurance on the following grounds:—

“Looking into the matter and taking up the same with the Ministry of Environment and Forest is dependent upon the request, which may or may not be received from any particular State.

The State of the Minister of State for Agriculture, it may be appreciated, purported to convey that the Ministry of Agriculture would examine the request of any individual State approaching it for obtaining exemption from Environmental ban and if found justified would take up the matter with the Ministry of Environment and Forest. That is why the Statement mentions' the conditions vary from State to State, but there may be circumstances existing in individual locations, in individual States where exemptions from the environment ban may be obtained.

The Statement also does not imply that Ministry of Agriculture, as such, sees any justification for lifting the ban or at least for relaxing the ban for settlement of Fishermen within 500 metres of the sea-shore in general.”

7.1 It being a policy decision of the Government, the Committee decided to drop the assurance.

Memorandum No. 77: Request for dropping of the assurance given on September 6, 1991, in reply to Unstarred Question No. 5900 regarding setting up of National Port Authority.

8. The Committee considered the request¹¹ of the Ministry of Surface Transport received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. IST(18) USQ-5900-LS93 dated September 23, 1991 for the dropping of the assurance on the following grounds:—

“The Committee on Government Assurances during its discussion held on 5-2-93 at Visakhapatnam opined that a proposal to drop the assurance may be sent if there is going to be delay in fulfilling the assurance.

The proposal to convert present port trust Boards into Corpn./Cs. is still under examination of the Government and is at the stage of preparing a draft Cabinet Note. After the finalisation of the Draft Cabinet Note the matter would be required to be referred to the Ministry of Finance/Law etc. Thereafter the approval of the Cabinet

would be required, before moving a bill in the Parliament for setting up of companies/corporations. It is likely to take considerable time before a final decision is arrived at. A background note fully explaining the case is as under:—

The Ministry of Surface Transport had mooted a proposal in May, 1988 to create a centralised authority like National Ports Authority by an Act of Parliament which will assume overall responsibility for the activities of the major Ports which are brought under it. The need for structural changes in the organisation and administration of the port trust has been under consideration of different Committees and authorities from time to time. The Estimates Committee in their 32nd report strongly recommended the setting up of a *Centralised Ports Authority*. The Recommendations of Major Ports Reforms Committee having a bearing on the Structural changes in the administration of Port Trusts were considered by an Empowered Committee under the Chairmanship of Secretary (SET). The Chairman of the Major Ports were also invited to express their views on the subject. Divergent views were expressed on the proposal and no consensus emerged. On the one hand, it was felt that the National Ports Authority would have the advantage of pooling of manpower resources and financial resources of the Ports Sector. It was also felt that such an authority would build up a centralised capability in the formulation of plans and designs for the projects in the ports sector. As the Major Ports are separate autonomous organisations, the only organisation which at present can achieve a measure of coordination among them is the Ministry. But, a Ministry is perhaps not the best organisation to achieve the desired measures of coordination among the different Major Ports. A compelling need was, therefore, felt to have a high level professional organisation which will oversee the operations of the various Ports and also formulate the plans and programmes of the future developments of this sector. Under the existing set up, the Ports are managed by a Board of Trustees appointed under the provisions of Major Port Trusts Act, 1963. Apart from the various Govt. Departments, interests such as ship owners, owners of sailing vessels, shippers and trade unions are represented on the Port Trust Board. Once the non-officials are appointed, they are beholden only to the sectional interests and they have no enforceable responsibility towards Government nor they can be held accountable by the Government despite the fact that all property, assets and funds of the port are vested in the Board of Trustees. It is worth noting that nowhere outside the Ports Sector has the Government adopted the organisational form of Board of trustees for any organisation engaged in economic activity of a substantial nature.

In spite of clear advantages in favour of National Ports Authority mentioned above, the concept has not been ready acceptance from all the quarters. It is felt that integration of personnel of all Major Ports will throw up a lot of problems because of the existing differences in work norms, incentive payments, allowances, etc. It was felt that the premise that a unified authority will strengthen the management and help the units to become economically viable is some-what for-fetched because bigger an organisation more difficult it will be to manage it. It was also felt that the healthy units may find their growth aspirations snapped by the need to cater to the ports in deficit. A fear was also expressed that the National Ports Authority, will in effect, only become a 5th wheel without bringing about any basic change in the style of functioning of either the port trust or the Ministry.

After examining the *pros and cons* of the proposal, the Ministry had sent a Cabinet Note for obtaining the Cabinet approval. The Cabinet desired that the proposal may in the first instance be considered by the Committee of Secretaries.

The Committee of Secretaries held a number of meetings in this regard. In the last meeting held on 3.4.1991 the Committee agreed that the present form of the Board of Trustees as envisaged in the Major Port Trusts Act is not an appropriate form of management of the Major Ports and should be converted into a corporate form of management such as a Company or a Corporation. They have, therefore, suggested that a Ports Corporation Act may be considered which may *inter-alia* provide for each port having separate corporate entity and port steering committee to meet the needs of coordination, planning and designing of projects and pooling of funds and equipment of better utilisation of the available resources for the overall development fund under the proposed legislation to which the surplus funds and other miscellaneous income may be pooled for the development of ports as a whole. In view of the recommendation of C.O.S., the proposal to set up National Ports Authority has been dropped. Separately a proposal to set up Port Corporation is under consideration of the Govt."

The proposal to convert Ports into Corporations envisages the following:—

- (i) The Port Trust Boards will be replaced by the Board of Directors who will be under the overall supervision of the Govt. and the Port Trust will be in the form of a Corporation under a new Act to be enacted *viz.* Port Corporation Act.
- (ii) The Board of Directors will have full powers to make appointments up to Boards level on the same line as obtaining in respect of Public Sector Undertakings (PSUs).

- (iii) The Board of Directors shall have full power in respect of fixation/revision of rates.
- (iv) The Board of Directors shall have powers to delegate either to the Managing Director or any other director or any office of the Corporation, such of its powers and function without any reference to the Central Govt. The Board of Directors shall have powers to incur expenditure on projects as per the BFE guidelines in respect of PSUs.
- (v) A Port Development Fund will be provided where the surplus funds of the Ports are pooled in a separate fund and the moneys in the Port Development Fund can be utilised by the Central Govt. for the purpose of maintaining and development of the Major Ports in the Country.

The various implications involved in converting ports into Corporations have been studied. While on the one hand, there will be advantages like greater autonomy by such conversion, there will also be some disadvantages like tax liability. Presently, Port Trusts are exempted from the purview of Income Tax, as they are considered as local authorities. If the Ports are converted into corporations, they will not be able to enjoy this benefit and such liability would be very heavy. It has, therefore, been proposed that such conversion, if approved can in the first instance be applied to smaller ports like Tuticorin and New Mangalore on newly formed Ports.

A draft Cabinet Note has been prepared for the purpose of conversion of ports into Corporations. After it is finalised and approval of the competent authority is obtained, it is required to be circulated to various other Government departments like the Ministry of Finance, Bureau of Public Enterprises, Department of Personnel, Ministry of Law and Justice, etc. After the concurrence/comments of these Ministries are obtained, the same are required to be incorporated in the draft Cabinet Note and Cabinet approached for approval. After the same is approved, a Bill will have to be prepared in consultation with the Ministry of Law and Justice and introduced in the Parliament for the purpose of enactment of the Port Corporation act. As the entire process is likely to take some time, a proposal is being made for dropping the assurance."

8.1. The Committee acceded to the request of the Minister and decided to drop the assurance.

Memorandum No. 78: Request for dropping of the assurance given on April 6, 1989 in reply to starred Question No. 514 regarding development of captive ports for transportation of coal.

9. The Committee considered the request of the Ministry of surface

Transport received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No.XII ST/SQ 514-LS/89, dated January 11, 1993 for the dropping of the assurance on the following grounds:—

“It may be stated that the Ministry of Energy (Deptt. of Power) have not yet obtained an investment decision regarding setting up of thermal power stations. So far as development of captive ports is concerned, the Dutch Consultants are expected to furnish their feasibility report only by the end of 1993. Thereafter, it will take another year or so before a project proposal is formulated and an investment decision is obtained in view of the protracted procedure for consultation with the appraising agencies and obtaining approval of PIB/CCEA. Further owing to drastic reduction in the plan outlay proposed in 8th plan 1992—97 for Ports Sector, it has not been possible to include this project in 8th plan 1992—97.”

9.1. The Committee acceded to the request of the Ministry and decided to drop the assurance in view of the reply of the Ministry that owing to drastic reduction in the plan outlay proposed in 8th plan 1992—97 for Port sector, it has not been possible to include this project in 8th plan 1992—97.

Memorandum No. 79: Request for dropping of assurances given on:—

- (i) November 25, 1991 in reply to Starred Question No. 58 regarding setting up of Development Board to remove regional imbalances;
- (ii) December 2, 1991 in reply to Starred Question No. 143 regarding setting up of Jharkhand State;
- (iii) December 2, 1991 in reply to Unstarred Question No. 1719 regarding Statutory Development Boards in Maharashtra;
- (iv) April 23, 1992 in reply to Starred Question No. 730 regarding Statutory Development Boards in Maharashtra;
- (v) July 9, 1992 in reply to Starred Question No. 27 regarding Development Boards in Maharashtra,;
- (vi) July 9, 1992 in reply to Starred Question No. 28 regarding Uttaranchal State;
- (vii) November 26, 1992 in reply to Unstarred Question No. 514 regarding Jharkhand Issue; and
- (viii) December 26, 1992 in reply to Unstarred Question No. 519 regarding creation of Uttaranchal State.

10. The Committee considered the request of the Ministry of Home Affairs *vide* his D.O. Letter No.16011/3/93-5R, dated August 17, 1993 for the dropping of the assurance on the following grounds:—

“There are eight pending Parliamentary Assurances relating to the Jharkhand problem, the demand for a separate State of Uttaranchal

and the proposal for the establishment of Autonomous Development Boards in Maharashtra.

While action has been in progress in respect of each of these subjects, it is not practically possible for the Government to arrive at conclusive decisions in such matters within envisaged time frames.

2. As you know, the Government has consistently been against the creation of new States, especially so in the prevailing sensitive situation. Nurturing local aspirations through autonomous arrangements is an involving process, which cannot be contained within preconceived time frames for obvious reasons.

3. For example the Jharkhand matter is being regularly discussed with the Government of Bihar and the Jharkhand movement leaders about the arrangements necessary and possible for the establishment of Jharkhand Area Development Council. In view of the widely variant perceptions, it will necessarily take time to forge a consensus in the matter.

Likewise, it will take time for ideas to crystallise about the need for and the extent of autonomous arrangements in respect of the proposed Uttaranchal. At any rate, such issues cannot be settled in the absence of a popular Government in the State.

As regards Development Boards in Maharashtra, the matter has not registered any progress because of the dichotomy between the perceptions of popular Government and the Constitutional provision in article 371 (2) about vesting the Governor with 'special responsibilities' outside the purview of the Council of Ministers, in respect of the Development Boards. Here, again, the problem does not lend itself to any easy solution.

4. In the aforesaid context, it is our considered view that it would not serve any particular purpose to indefinitely keep pending the Assurances, I may, however, assure you that even after these assurances are dropped, these matters will continue to receive our continuous and utmost attention. As soon as final decisions are arrived at, we will inform the Hon'ble Members concerned as also the Lok Sabha."

10.1 The Committee decided to drop all the eight assurances in view of the assurance given to the Committee by the Minister of Home Affairs that these matters will continue to receive Government's continuous and utmost attention and as soon as final decisions are taken the same would be conveyed to the Hon'ble Members concerned and also to the Parliament.

11. The Committee took up for consideration their draft Fifteenth Report and adopted the same for being presented to the House.

12. The Committee decided to hold the next sitting on November 30, 1993 at 11.00 A.M. or any day during the first week of December, 1993 as may be decided by the Chairman.

The Committee then adjourned.

MINUTES

Third Sitting

Minutes of the Sitting of the Committee on Government Assurances held on February 10, 1994 in Room No. '62' Parliament House, New Delhi.

The Committee met on Thursday, February 10, 1994 from 11.30 hours to 12.30 hours.

PRESENT

Shri Basudeb Acharia — *Chairman*

MEMBERS

2. Shri Vishveshwar Bhagat
3. Shri Gurcharan Singh Dadhahoor
4. Shri P.P. Kaliaperumal
5. Major D.D. Khanoria
6. Shri Surendra Pal Pathak
7. Smt. Suryakanta Patil
8. Shri Nawal Kishore Rai
9. Shri Yoganand Saraswati
10. Shri Shibu Soren
11. Shri V.S. Vijayraghvan

SECRETARIAT

Shri Murari Lal — *Joint Secretary*

Shri Joginder Singh — *Deputy Secretary*

Shri Ram Autar Ram — *Under Secretary*

2. The Committee considered and adopted their draft Nineteenth Report. The Committee authorised the Chairman to present the report during the Budget Session of Parliament.

3. The Committee then took up for consideration Memoranda Nos. 86 & 87 regarding dropping of assurances.

Memorandum No. 86: Request for dropping of the assurance given on July 27, 1993 in reply to Unstarred Question No. 362 regarding Delhi Milk Scheme.

4. The Committee considered the request of the Ministry of Agriculture

received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No VII/Agri. (15) USQ 362-LS/93, dated January 17, 1994 for the dropping of the assurance on the following grounds:—

“...The reply given by the Hon'ble Minister was completed and final and no part of the question required any further clarification/facts etc. and this position was accepted by Lok Sabha Secretariat. It is only after three months that the Lok Sabha Secretariat has treated this Question as an assurance without informing us.

The Delhi Milk Scheme is a public utility organisation and is presently running in losses. It is essential to have the consent of Government of National Capital Territory of Delhi for which we have written to Delhi Administration at the highest level. The modalities of transfer of staff/assets have to be worked out before hand. We have taken requisite action on all aspects of transfer and as such reply to the question mentioned above is complete and final. It is requested that this may not be treated as an assurance.”

4.4 The Committee did not accede to the request of the Ministry of Agriculture for dropping of the assurance. The Committee noted that the Ministry of Agriculture did not seek any extension of time. The Committee, however, gave three months time for fulfilment of the assurance.

Memorandum No. 87: Request for dropping of the assurance given on August 26, 1993 in reply to Unstarred Question No. 4552 regarding Government Maps.

5. The Committee considered the request of the Ministry of Home Affairs received through the Ministry of Parliamentary Affairs *vide* their U.O. Note No. VII/HA(25)USQ 4552-LS/93, dated January 1, 1994 for the dropping of the assurance on the following grounds:—

“As per interim reply received from the CBI they have filed 3 regular cases in the Court of Sub-Judge, Greater Bombay. Since the matter has now gone to the Court, it may take a long time before the cases are finalised. The Ministry may, therefore, not be in a position to fulfil the assurance in a reasonably expected time.”

5.1 The Committee decided to drop the assurance.

6. Thereafter, the Committee took up for consideration Memorandum No. 88 containing 18 pending Assurances pertaining to the First Session of Tenth Lok Sabha. (Annexure)* relating to the Ministries of Chemicals and Fertilizers, Civil Aviation and Tourism, Commerce and Communications of the First Session of Tenth Lok Sabha for their review. The decision of the

*Already circulated alongwith the Memorandum No. 88.

Committee are given against each of them as per details given below:—

MINISTRY OF CHEMICALS AND FERTILIZERS

Sl.No	Question No. and Date	Extension Sought upto	Decision of the Committee
1	2	3	4
1.	SQ NO. 589 Dt. 28.8.91	27.5.93	Might be pursued.
MINISTRY OF CIVIL AVIATION & TOURISM			
2.	USQ. No.4545 Dt. 27.8.91	Nil	Might be pursued.
3.	USQ. No.4546 Dt. 27.8.91	Nil	Might be pursued.
4.	USQ. No.6437 Dt.10.9.91	10.6.94	Extension granted. Might be pursued.
COMMERCE			
5.	SQ.714 Dt.6.9.91	31.12.93	Might be pursued Extension of one more month granted. <i>i.e.</i> upto 10.3.94.
6.	USQ.2347 Dt.9.8.91	Partly implemented and fruther extension not sought.	Might be pursued.
COMMUNICATIONS			
7.	SQ.85 Dt.18.7.91	31.3.94	Extension granted. Might be pursued.
8.	USQ.550 Dt.25.7.91	30.6.92	Might be pursued.
9.	SQ.146 Dt.25.7.91	Nil	Might be pursued.
10.	USQ.1304 Dt.1.8.91	Advance implementation report received.	The Committee did not accept the implementation report. Might be pursued.
11.	SQ.365 Dt.8.8.91	31.3.94	Extension granted. Might be pursued.

1	2	3	4
12.	USQ.2251 Dt.8.8.91	Nil	Might be pursued expressed displeasure for not implementing the assurance till now.
13.	USQ.3869 Dt.22.8.91	31.3.94	Extension granted. Might be pursued.
14.	USQ.4046 Dt.22.8.91	31.3.94	Extension granted. Might be pursued.
15.	SQ.622 Dt.29.8.91	31.3.94	Extension granted. Might be pursued and to write to the Ministry for immediate implementation of the assurance.
16.	USQ.6818 Dt.12.9.91	30.6.92	Extension granted. Might be pursued.
17.	USQ.6911 Dt.12.9.91	15.4.94	Extension granted. Might be pursued.
18.	USQ.6934 Dt.12.9.91	Nil	Might be pursued.

7. The Committee expressed their displeasure over abnormal delay caused in furnishing information to the House even on small matters which could be done without any delay. The Committee, therefore, decided that the representatives of the Department of Telecommunications might be called to appear before them at their next sitting to explain the reasons for non-implementation of the assurances given by their Minister from time to time.

8. The Committee decided to hold their next sitting on Wednesday, February 23, 1994 at 15.00 hours.

The Committee then adjourned.