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STANDING COMMITTEE ON FINANCE

(THIRTEENTH LOK SABHA)

MINISTRY OF DISINVESTMENT

DEMANDS FOR GRANTS
(2003-2004)

FORTY SECOND REPORT

Presented to Lok Sabha on 21 April, 2003
Laid in Rajya Sabha on 21 April, 2003

LOK SABHA SECRETARIAT
NEW DELHI

April, 2003/ Chaitra, 1925 (Saka)

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Shri. N. Janardhana Reddy – Chairman

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2. Shri Omar Abdullah
3. Shri Raashid Alvi
4. Shri Sudip Bandyopadhyay
5. Shri Surender Singh Barwala
6. Shri Ramesh Chennithala
7. Smt. Renuka Chowdhury
8. Dr. Daggubati Ramanaidu
9. Shri Kamal Nath
10. Shri Trilochan Kanungo
11. Shri Rattan Lal Kataria
12. Dr. C. Krishnan
13. Shri M.V.V.S. Murthi
14. Shri Sudarsana E.M. Natchiappan
15. Capt. Jai Narain Prasad Nishad
16. Shri Rupchand Pal
17. Shri Prabodh Panda
18. Shri Prakash Paranjpe
19. Shri Raj Narain Passi
20. Shri Sharad Pawar
21. Shri Pravin Rashtrapal
22. Shri Ramsinh Rathwa
23. Shri Chada Suresh Reddy
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25. Shri Jyotiraditya Madhavrao Scindia
26. Shri T.M. Selvaganapathi
27. Shri Lakshman Seth
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29. Shri Kharbela Swain
30. Shri P.D. Elangovan**

RAJYA SABHA

31. Dr. Manmohan Singh
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33. Shri Murli Deora
34. Shri Prithviraj Chavan
35. Shri S.S. Ahluwalia
36. Shri Swaraj Kaushal*
37. Shri M. Rajasekara Murthy
38. Dr. Biplab Dasgupta
39. Shri P. Prabhakar Reddy
40. Shri Amar Singh
41. Shri Prem Chand Gupta

42. Shri Palden Tsering Gyamtso
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44. Shri Praful Patel
45. Shri Dinesh Trivedi

SECRETARIAT

1.	Shri P.D.T. Achary	-	Additional Secretary
2.	Dr. (Smt.) P.K. Sandhu	-	Joint Secretary
3.	Shri R.K. Jain	-	Deputy Secretary
4.	Shri S.B. Arora	-	Under Secretary

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* Nominated to this Committee vice Sh. Mukhtar Abbas Naqvi w.e.f. 26.3.2003

** Nominated to this Committee w.e.f. 07.04.2003

INTRODUCTION

I, the Chairman of the Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf, present this Forty Second Report on Demands for Grants (2003-2004) of the Ministry of Disinvestment.

2. The Demands for Grants of the Ministry of Disinvestment were laid on the Table of the House on 07 March, 2003. Under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha, the Standing Committee on Finance are required to consider the Demands for Grants of the Ministries/Departments under its jurisdiction and make Reports on the same to both the Houses of Parliament.

3. The Committee took oral evidence of the representatives of the Ministry of Disinvestment at their sitting held on 26 March, 2003 in connection with examination of the Demands for Grants.

4. The Committee considered and adopted the Report at their sitting held on 09 April, 2003.

5. The Committee wish to express their thanks to the Officers of the Ministry of Disinvestment for co-operation extended by them in furnishing written replies and for placing their considered views and perceptions before the Committee.

6. For facility of reference, the observations/recommendations of the Committee have been printed in thick type.

NEW DELHI;
9 April, 2003
19 Chaitra, 1925 (SAKA)

N. JANARDHANA REDDY,
Chairman,
STANDING COMMITTEE ON FINANCE

REPORT

INTRODUCTORY

Functions and Organisational Structure of the Ministry of Disinvestment

The Department of Disinvestment was set up vide Notification No. CD/551/99 dated 10.12.1999. Vide Notification No. CD-442/2001 dated 6th September, 2001, the Department of Disinvestment was renamed as Ministry of Disinvestment.

The Ministry has been assigned the following work:

(a) All matters relating to disinvestment of Central Government equity from Central Public Sector Undertakings.

(b) Decisions on the recommendations of Disinvestment Commission on the modalities of disinvestment, including restructuring.

(c) Implementation of disinvestment decisions, including appointment of Advisors, pricing of shares, and other terms and conditions of disinvestment.

(d) Disinvestment Commission.

(e) Central Public Sector Undertakings for purposes of disinvestment of Government equity only.

The overall Demands for Grants of the Ministry of Disinvestment are as follows :

	Charged	**Voted**
Demand No. 28	**………….**	**Rs. 28.37 Crore**

In the present Report, the Committee have examined the following issues:-

1. Policy Document on Disinvestment
2. Disinvestment Fund/ Disinvestment Objectives
3. Voluntary Retirement Schemes(VRS)/Employees Welfare
4. Payments for Professional and special services
5. Publication

1. Policy Document on Disinvestment

1. Policy makers, be it in the administrative Ministries or in the State Governments, occasionally face a dilemma. They are often convinced about the merits of Privatisation, but do not know how to implement it. The enormous outpouring of literature on Privatisation, the dramatic success of privatisation in a large number of diverse countries, and the economic realities of excessive burden of overstretched public sector in their States, have convinced them to try privatisation. Yet to most of them, the process of implementing privatisation is often shrouded in mystery. This fear of the unknown often discourages them from taking the first step.

2. They are often confronted with a number of questions like which Public Sector Enterprises should be taken up for disinvestment, which method of disinvestment should be followed, how to disinvest to get the best realization and optimise on the objectives, how to prepare documents etc. This seems difficult, particularly because of the diverse nature of PSEs.

3. The Standing Committee on Finance had taken serious note of the fact that the disinvestment process was being done on case to case basis without any broad based comprehensive policy document that would give consistency to the disinvestment policy/process. Even the booklet "Disinvestment : Policy and Procedures" published by the Government was, according to their own admission, only a compilation of policies as contained in the Budget speeches of the Finance Minister as well as other policies announced by the Government from time to time. The Committee opined that a decade long exposure and exercise with disinvestment was sufficient to equip the Government with the requisite competence to bring out a uniform policy/procedure for disinvestment.

4. The Government / Disinvestment Ministry has been repeatedly urged to formulate and bring out a policy document on disinvestment which should be placed before the Parliament for its approval by the Committee in their Demands for Grants Reports and the Action Taken Reports for the years 2001-2002 and 2002-2003. The Ministry of Disinvestment in their action taken replies, vide OM no. 405011/3/2000 – Parl (Vol. II) dated 6.9.2002 had requested the Committee to allow some more time for preparing comprehensive policy document on disinvestment.

5. During examination of Demands for Grants (2003-2004), when the Ministry of Disinvestment were asked to state whether broad-based comprehensive policy on disinvestment has been prepared by the Government by now, and if not, to explain the problems faced by the Government to bring out such a policy document on disinvestment, they gave the following replies as under :-

> "The policy on disinvestment has evolved over time. Its fundamental framework is stable over the medium term and is comprehensive and consistent. As decided by the Government on 16th March, 1999, all non-strategic PSUs are to be disinvested except IOC, ONGC and GAIL where 51% equity is to be retained and OIL which is not to be disinvested. The following areas have been classified as strategic areas, which are not to be disinvested:
>
> (a) Arms and ammunitions and the allied items of defence equipment, defence air-crafts and warships;
> (b) Atomic energy (except in the areas related to the generation of nuclear power and applications of radiation and radio-isotopes to agriculture medicine and non-strategic industries);
> (c) Railway transport.
>
> All other PSUs are to be considered non-strategic and can be disinvested after considering the level of competition prevailing in the sector and the need for a regulatory mechanism to protect consumer interests.
>
> No distinction is made between profit making and loss making enterprises since the financial condition of a company is dynamic and can change with the level of competition and market environment.
>
> Government has adopted a uniform policy and procedure for implementing disinvestment, details of which are available in the document "Disinvestment Policy Procedures and Progress", which has been circulated in February 2003 and is also available on the web-site of the Ministry of Disinvestment."

6. When the Committee asked the Government that whether the Government think that in the absence of a consistent policy on disinvestment, every transaction is being viewed with suspicion, harming the Governments' reputation resulting in loss of revenue to the Government, the Government submitted their reply as below :

> "The policy on disinvestment is consistent. It evolved over time and is stable over the medium term. It has also been tested in the Courts several times and has been upheld."

7. The Government, answering to a specific question on disinvestment programme/policy with regard to its credibility and transparency, have submitted as below :

"The Disinvestment Programme of the Government has stood the test of time and has established creditworthy benchmarks in the areas of transparency and administrative effectiveness. It is noteworthy that in the BALCO judgement the Supreme Court held that:

…..apart from the fact that the policy of disinvestment cannot be questioned as such, the facts herein show that fair, just and equitable procedure has been followed in carrying out this disinvestment. The allegations of lack of transparency or that the decision was taken in a hurry or that there has been an arbitrary exercise of power is without basis."

"The procedures for disinvestment are continuously reviewed in the light of experience and revised from time to time.

- The procedure being followed relies on international competitive bidding both for the appointment of Advisors to the Government for guiding the Government through the process of disinvestment, as well as for the selection of bidders.
- Criteria for eligibility of bidders is pre-announced and does not change subsequent to receipt of Expression of Interests.
- Valuation of bids is done through an Inter Ministerial Group (IMG) which is assisted by professional Advisors and whose recommendations are put up to the Core Group of Secretaries on Disinvestment (CGD) for recommendation to the Cabinet Committee on Disinvestment (CCD) which is chaired by the Prime Minister.
- The transaction documents are finalised in discussion with all the Qualified Interested Parties.
- The reserve price is determined only after the final bids have been received in sealed envelopes so as to avoid the situation where the reserve price may influence the bids being received. The final bids are kept confidential and are opened only after IMG fixes the reserve price for the transaction.

- After the completion of the transaction, all papers are turned over to the CAG for an independent examination.

It is therefore, submitted that whether at the stage of calling for bids or at the stage of evaluation of the bids received or in the process of defining the transaction agreements complete transparency and Inter Ministerial decision making is ensured along-with a high level of participation by all the potential bidders in the formulation of the transaction documents. Through these mechanisms, the Government has been able to ensure that disinvestment transactions become completely transparent but still remain administratively simple and consensual in nature. "

8. The Committee are not satisfied with the reply given by the Government where claims have been made that the policy on disinvestment has evolved overtime; its fundamental framework is stable over the medium term, and it is comprehensive and consistent. The Committee are constrained to note that the reply given by the Government is not in tandem with the reply submitted earlier by them in September, 2002 wherein they have made a request to the Committee to allow some more time to prepare and bring out the policy document mentioned above. The Committee are rather perturbed by the Government's casual approach towards the Committee's repeated recommendations to bring out a comprehensive document on Disinvestment Policy which could be laid before the Parliament for its approval. The document "Disinvestment Policy, Procedures and Progress" circulated in February, 2003 is just the second edition of similar book published earlier in April, 2001. It is, as admitted earlier by them, just a compilation of the speeches of Finance Minister, as well as other policies announced by the Government from time to time. Moreover, had this been the policy document, the Ministry would have not asked for extension of time to prepare and bring out a comprehensive policy document. Therefore, the Committee are not inclined to accept this as Policy Document as it has never been laid in Parliament for its approval. At the same time, they are unable to understand the difficulty that is being faced by the Government in formulating the comprehensive policy document.

9. The Committee, therefore, once again desire that the Government should take note of their recommendation seriously and come forward with a comprehensive policy document on disinvestment policy and place it before the Parliament for its approval.

2. Disinvestment Fund/Disinvestment Objectives

10. The proposal to set up a Fund with the proceeds from disinvestment has been raised from time to time. Disinvestment Commission in its First Report submitted in February 1997 recommended "The proceeds of disinvestment be placed separately in a Disinvestment Fund (DF) and not be fungible with other government receipts…The resources in the Disinvestment Fund may be used for temporarily meeting the losses of some PSUs before disinvestment, where required, for a limited period during the process of short term restructuring or closure, for strengthening marginally loss making PSUs in preparation for disinvestment and for providing benefits to workforce found to be surplus during restructuring or closure. The savings to the Budget on account of such recurring budgetary support to loss making PSUs could be diverted for investment in sectors like infrastructure, education and health and retirement of public debt. In addition, it is proposed that the funds for conducting the publicity campaign for the disinvestment of PSU shares be drawn from the Disinvestment Fund. Since the PSUs come under various administrative Ministries, it is proposed that the Disinvestment Fund be administered by the Ministry of Finance in order to facilitate better co-ordination and smoother administration."

11. In his Suo – Moto Statement made in both the Houses of Parliament on 9 December, 2002, Minister of Disinvestment said that in order to provide complete visibility to the Government's continued commitment of utilisation of disinvestment proceeds for social and infrastructure sectors, the Government would set up a **Disinvestment Proceeds Fund**. This Fund will be used for financing fresh employment opportunities and investment, and for retirement of public debt.

12. Again, the Hon'ble Finance Minister, in his Budget Speech – 2003-2004, has stated "….. the already announced Disinvestment Fund and Asset Management Company, to hold residual shares of post disinvestment shall be finalised early in 2003-2004".

13. The Government were asked to explain the reasons for the delay and the circumstances which forced the Government to create such a fund now and to state whether the Government had finalised all modalities with regard to cash-inflow and out-flow from the fund. The Government submitted their replies as stated below :

> "The Finance Minister in his Budget Speech 2000-2001 had stated that "…. The entire receipt from disinvestment and privatization will be used for meeting expenditure in social sector, restructuring of PSUs and retiring public debt". On this basis MODI had submitted a proposal for establishment of a Disinvestment Fund on the basis of which it was decided that the matter would be further dealt by the Ministry of Finance. Finance Minister in the Budget Speech 2003-04 has stated that the modalities about the already announced Disinvestment Fund shall be finalised early in 2003-04. "

14. However, Replying to a specific question regarding expenditure on social and physical infrastructure out of the disinvestment proceeds, during examination of Demands for Grants (2002-2003), the Government have stated :

> "since disinvestment proceeds are deposited in Consolidated Fund of India (CFI), there is no way to estimate how they have been spent. But, as indicated earlier, the allocations/expenditure on social and physical infrastructure have been much higher than disinvestment proceeds received in that year."

15. The Committee asked the Government to furnish the list of Companies which the Government intend to disinvest during the year 2003-2004 and to state the proceeds anticipated from the sale of these PSUs.

16. The Government has furnished the list as given below :

<u>List of PSUs likely to be disinvested during 2003-04</u>

(Annexure referred to in reply to paragraph No.3)

Sl. No	Name of the PSU	Present status
1	Hindustan Organic Chemicals Ltd. (HOCL)	Fresh short bids invited as per CCD's decision dated 27.12.2002. Bids received and shortlisted parties have commenced their due diligence.
2.	Balmer Lawrie & Co. Ltd.	Shortlisted parties have completed their due diligence. Their plant visit is in progress. Comments of the bidders on the draft transaction documents are under consideration of the IMG.
3.	Engineering Projects India Ltd. (EPIL)	Transaction documents have been cleared by IMG. EPIL is taking necessary action for reduction in the Paid up capital of the company.
4.	Instrumentation Control Valves Ltd.	Financial bid received. Note for CGD/CCD under submission.
5.	NEPA Ltd.	Fresh EOI invited as per CCD's decision dated 27.12.2002. Parties have been shortlisted on 13.3.2003.

6.	Tungabhadra Steel Products Ltd. (TSPL)	Transaction documents cleared by IMG. Financial Restructuring proposals under formulation by DHI.
7.	Engineers India Ltd. (EIL)	Transaction documents cleared by IMG. Clarification from SEBI on listing requirement awaited.
8.	Bharat Petroleum Corporation Ltd. (BPCL)	Advertisement inviting EOIs for appointment of GCAs is under issue.
9.	Hindustan Petroleum Corporation Ltd. (HPCL)	HSBC has been appointed as Advisors for the transaction. EOIs have been received. IMG to shortlist the bidders in the meeting to be held on 25.3.2003.
10.	Maruti Udyog Ltd. (MUL)	Book Runners and other intermediaries have been appointed. Book Runners and the LA are in the process of writing Offer Documents.
11.	State Trading Corporation of India Ltd. (STC)	Due diligence by Qualified Interested Parties (QIPs) completed. Transaction Agreements being finalised.
12.	Hindustan Copper Ltd. (HCL)	Due diligence by Qualified Interested Parties (QIPs) completed. Transaction Agreements being finalised.
13.	Shipping Corporation of India Ltd. (SCI)	Transaction documents are to be frozen, before inviting financial bids.
14.	MECON Ltd.	EOIs to be invited after business restructuring.
15.	Manganese Ore (India) Ltd. (MOIL)	EOIs are to be invited shortly.
16.	Burn Standard Company Ltd. (BSCL)	EOIs are to be invited shortly.
17.	Sponge Iron India Ltd. (SIIL)	EOIs are to be invited shortly.
18.	National Instruments Ltd. (NIL)	Appointment of Advisor is to be done after BIFR disposes off the appeal of the Department of Heavy Industry. Thereafter, EOIs to be called for.
19.	National Fertilizers Limited	Re-advertisement inviting EOIs for disinvestment of 51% GOI equity was issued on 16/17.1.03 following CCD decision dated 27.12.02 to allow Multi State Cooperative Societies under Department of Fertilizers to participate in the disinvestment process. Bidders have been shortlisted; Advisors have sent bid pack to the bidders; Data room study and due diligence by bidders in progress.
20.	Fertilizers and Chemicals Travancore Limited	Advertisement inviting EOIs for disinvestment of 51% GOI equity was issued on 6-8.11.02 but bidders have not been shortlisted. Re-advertisement inviting fresh EOIs has been issued on 4-6.2.03 following CCD decision dated 27.12.02 to allow Multi State Cooperative Societies under Department of Fertilizers to participate in the disinvestment process. Bidders have been shortlisted; CIM under finalization.
21.	ITDC – Hotel Jaipur Ashok	CCD Note seeking approval for offering 100% Unearned Increase in the value of land to the State Government sent to Cabinet Secretariat. After receipt of CCD approval, State Government would be approached. In-principle approval of State Government received.
22.	ITDC – Hotel Kalinga Ashok	CCD Note seeking approval for offering 100% Unearned Increase in the value of land to the State Government sent to Cabinet Secretariat. After receipt of CCD approval, State Government would be approached. In-

		principle approval of State Government received.
JV Hotels of ITDC :		
23.	Hotel Neelachal Ashok, Puri	CCD Note seeking approval for offering 100% Unearned Increase in the value of land to the State Government sent to Cabinet Secretariat. After receipt of CCD approval, State Government would be approached before issuing EOI advertisement. In-principle approval of State Government received.
24.	Hotel Anandpur Ashok, Anandpur Sahib (incomplete project)	CCD Note seeking approval for offering 100% Unearned Increase in the value of land to the State Government sent to Cabinet Secretariat. After receipt of CCD approval, State Government would be approached before issuing EOI advertisement. In-principle approval of State Government received.

17. As regards anticipated proceeds, to be realised from disinvestment of these PSUs it was stated that it could not be estimated in advance, and will depend upon a variety of factors including market conditions, performance of the PSU, interest of prospective bidders, the adequacy of the price bid etc. However, during evidence, replying to a specific question in regard to disinvestment target for 2003-2004, the Secretary, Ministry of Disinvestment has given oral submission as under :

> " Let me first reply to this question of target. What I mentioned was the speech of the Finance Minister during Budget. He said that for the revenues of this country, we would expect Rs. 13,200 crore to come from this Department. This is the money which he is expecting from this Department. This does not mean that we are going to make a distress sale and reach this target."

18. When asked from the Government about the annual target set and the amount realised through disinvestment of PSUs during the last five years the following statement was furnished :-

(Rs. in crore)

Year	Target	Proceeds from Disinvestment
1997-1998	4,800	902
1998-1999	5,000	5,371
1999-2000	10,000	1,829
2000-2001	10,000	1,868
2001-2002	12,000	5,632
2002-2003	12,000	3,348.13*

*upto 15.3.2003

19. It has been stated in the Annual Report of Ministry of Disinvestment (2002-2003) that the objectives of disinvestment programme vary from improving

efficiency of the Public Sector Enterprises to transformation of the society for making Indian economy more vibrant, healthy and adequately equipped to contest in global arena.

20. Disinvesting PSUs is not the sole objective of disinvestment programme but also to improve efficiency of PSEs, to uplift the society and to make the economy of India globally competent to compete and also retiring public debt from the proceeds received from disinvestment.

21. The Committee asked the Government regarding the mechanism/system that is being used by the Government to fulfil /achieve the objectives of disinvestment programme as enumerated above and also to state whether the Government have to face hurdles / set backs in achieving its objectives.

22. The Government submitted written replies as stated under :-

> " Disinvestment is expected to facilitate the productive use of existing assets and the creation of new assets. To ensure that the existing assets of PSUs are productively used, the Government introduces specific provisions in the transaction agreements which bar the Strategic Partner from diluting or in any other way disposing off his equity without the approval of the Government. This provision ensures that a Strategic Partner develops long-term interests in the company. Specific provisions restricting the sale of assets, beyond an identified level, are also normally introduced to guard against the possibility of asset stripping.
>
> Several provisions are also introduced to safeguard employment and to protect the interests of employees during the initial years of disinvestment. No retrenchment is permitted for a period of one year and VRS is permitted only as per Department of Public Enterprises guidelines or as applicable in the company whichever is more beneficial to the employees.
>
> Almost all the new managements in the disinvested PSUs have embarked upon giving training to the employees in the areas of production, quality, safety and computers.
>
> Restrictions on the transfer of transaction shares held by the strategic partner or the sale of assets owned by the disinvested company as well as for the protection of the employees are resisted by potential investors since these are viewed as value dampeners. However, the Ministry ensures through discussions between the Advisors and potential investors on the one hand and through discussions with representatives of the employees that provisions are introduced in the transaction agreements, which would balance the interests of employees as well as those of the strategic partner. In this manner the Government tries to ensure that the strategic partner is given the required amount of commercial and financial autonomy without compromising the sustained functioning and growth of the disinvested company. The Finance Minister has already announced in the Budget Speech 2003-04 that a Disinvestment Fund is to be set up to channelise the proceeds of

disinvestment into areas where they are most required for the creation of employment, investment and related economic and social development."

23. When, during examination of Demands for Grants (2002-2003), asked if the Government chalked out an action plan for the utilisation of the anticipated receipt for the year 2002-2003 the Government gave their written reply as below:

> "The achievement of target in disinvestment depends upon various factors like market conditions, interest of prospective bidders adequacy of bid price etc. Therefore, the amount expected to be generated through disinvestment cannot be precisely predicted at this stage. However, Ministry of Disinvestment is hopeful of meeting the target and would do its best to reach the figure, through the procedures now established well. Whatever amount will be received, during the year 2002-2003, will be deposited in the Consolidated Fund of India."

24. The Committee had recommended in their 30th Report on Demands for Grants (2002-2003) of Ministry of Disinvestment that the Government should put in place a system to ensure that a good portion of sale proceeds from the PSU disinvestments was actually spent on social and infrastructural sectors as was envisaged in the objectives of the disinvestment.

25. The Government in their action taken replies submitted as below :-

> "The commitment of the Government to social and infrastructure sector is reflected in the enhanced allocation year after year in these sectors. The expenditure from the Budget in the Departments of Education, Health & Family Welfare in the past three years (upto 2001-02) has been between 4 to 7 times the total disinvestment receipts accruing in the year. If the investment in infrastructure is added this will increase even further."

26. The Committee find that creation of Disinvestment Fund was first recommended by the Disinvestment Commission way back in 1997. The Government, however, did not seem to be in favour of creating such a fund as it maintained that proceeds from disinvested PSUs were being deposited in the Consolidated Fund of India. It was only recently that the Government has given serious thought of creating the Fund. It took about six years for the Government to set up such a fund. The Government has failed to explain the reasons for not creating the fund all these years. The

Committee express their displeasure over the sorry state of affairs in this regard.

27. The Committee are also pained to note that though the Finance Minister in his Budget Speech 2000-2001 had announced that the entire disinvestment proceeds would be utilised for meeting expenditure in social sector, restructuring of PSUs and retiring public debt, the Government on the other hand in their reply to the Committee, during Demands for Grants (2002-2003) had stated that since disinvestment proceeds were deposited in Consolidated Fund of India (CFI), there was no way to estimate how they had been spent. This in the opinion of the Committee, has frustrated the very purpose of Disinvestment. They believe that had the fund been created earlier the proceeds realised from the disinvestment activity since 1997 could have been deposited therein and as a result inflow and outflow could have been watched more effectively.

28. The Committee, therefore, urge upon the Government to set up the disinvestment Fund without any further delay and spend the amount on the purposes which were originally envisaged under the Policy.

3. Voluntary Retirement Schemes (VRS) / Employees Welfare

29. A general fear among the employees at the time of disinvestment is that they may be retrenched or their pay scales and services conditions may be adversely affected. Global experience shows that if the privatised companies grow rapidly, labour restructuring may not be required. A number of protections are available to the employees under various labour laws. These labour laws are applicable to the company irrespective of whether it is in the Public Sector or in the Private Sector. Besides this, employee protection is ensured by incorporating suitable clauses in the Shareholders' Agreement.

30. The Strategic Partner covenants with the Government that -

(a) notwithstanding anything to the contrary in the Transaction Agreements, it shall not retrench any of the Employees of the Company for a period of 1 (one) year from the Closing Date other than any dismissal or termination of Employees of the Company from their employment in accordance with the applicable staff regulations and standing orders of the Company or applicable Laws;

(b) notwithstanding anything to the contrary in the Transaction Agreements, but subject to Sub-Clause (a) above, any restructuring of the labour force of the Company shall be implemented in the manner recommended by the Board and in accordance with all applicable Laws;

(c) notwithstanding anything to the contrary in the Transaction Agreements, but subject to Sub-Clause (a) above, in the event of any reduction of the strength of the Company's Employees, the SP shall ensure that the Company offers its Employees an option to voluntarily retire on terms that are not, in any manner, less favourable than the VRS applicable before disinvestment.

31. The Committee desired to know whether a clear cut policy on the terms of Voluntary Retirement Scheme (VRS) has been laid down by the Government to narrate the modalities adopted for implementation of VRS for employees of divested PSUs. The Committee also wanted to know whether there was any instance that came to their notice where employees of divested PSUs were forced to take voluntary retirement and the action taken by the Government in such a situation.

32. The Government in their reply have stated :

- " The Government ensures through a provision in the transaction agreements that VRS implemented in disinvested PSUs would be along the guidelines prescribed by the Department of Public Enterprises or as applicable in the PSU prior to disinvestment which ever is more beneficial for the employees.
- VRS is to be implemented by the Strategic Partner to whom management control has been transferred post disinvestment. However, the VRS scheme has to conform to the provisions in the transaction agreements.
- Some complaints have been received stating that employees of disinvested PSUs were being forced to take voluntary retirement. Such complaints are brought to the notice of the concerned administrative Ministries who monitor the implementation of the transaction agreements through Government Nominee Directors. There have been no instances where Government Nominee Directors may have identified a case where an employee has been forced to take voluntary retirement."

33. When the Government's attention was drawn to a news item captioned "VRS money not paid in full, say BALCO workers", which appeared in The Times of India on 10th March, 2003 wherein a section of the BALCO employees who had taken the 'voluntary retirement (VRS) package offered by the management alleged that the company had given them only 20 per cent of the VRS amount, without interest for the remaining 80 per cent, while deducting income tax on the entire amount. It has further been alleged that the company withheld Rs.30,000 of retirement benefit which the employees had been paying regularly from their salaries.

34. The Government submitted their comments/explanation on the veracity of the above press report as given below :

"Information provided by the company confirms that the voluntary retirement scheme was given in five instalments. The BALCO plant remained shut for a period of over two months immediately after disinvestment and the company reported a loss of around Rs.200 crores during this period. Due to the peculiar nature of the aluminium industry, once the smelter is shut down, it is very difficult and expensive to bring production back to a satisfactory level. These are the reasons why the new management of BALCO faced a cash crunch and were unable to provide VRS in one lump-sum. Ministry of Mines had taken up this issue with the new management and the company is now paying interest at the rate of 7% per annum, on the future four instalments, after deducting applicable tax at source,

The company has informed that the retirement and death relief benefit of Rs.30,000 is paid by the company out of the Retirement and Death Relief Fund, partly contributed by the employees, which is non-refundable on resignation /VRS/ any other separation except retirement / death. Employees opting for VRS are not eligible for this benefit under the VRS Scheme as per the practice even prior to disinvestment.

The company has informed that as per the requirements of the Income-Tax Act, out of the amount payable under VRS ,a sum of Rs.5,00,000 is exempt from tax. However, to avail of this exemption, the tax on the amount exceeding Rs.5,00,000 is required to be deducted at source and such tax is deducted from the first instalment of 20% paid to the employees opting for VRS. Appropriate income tax has to be deducted immediately on accepting the applications as the entire exgratia payment is accrued at the time of payment of first instalment itself and receiving the amount in instalments is only the mode of receipt by the employees. In addition, as per Income tax Act, employees can not claim exemption under VRS in more than one year."

35. Asked as to how interest of the employees could be protected, the Government furnished their reply as below :

> "The provisions made by Government in the Transaction Agreements for protection of employee interest are extensive and specifically provide for penalties if these provisions are contravened.
>
> There has been no other case reported, apart from BALCO, where the new management of a disinvested PSU may have not adhered to the provisions for employee protection. Even in the case of BALCO, the matter was taken up with the new management by Government and interest is now being paid on the delayed instalments of VRS.
>
> Monitoring of the implementation of the provisions in the transaction agreement is done by the Government nominee Directors, who are nominated by the concerned administrative Ministries.
>
> The Ministry continuously reviews the procedures adopted and the provisions of the Transaction Agreements in the light of experience gained with the objective of ensuring that the rights of employees are protected.
>
> It is also submitted that in addition to the specific provisions of the Transaction Agreements, which contractually bind the strategic partner to protect employee interests, the employees continue to have the full protection of the existing Labour Laws."

36. The Committee are constrained to note that inspite of tall claims made by the Government to have provided full protection to employees of disinvested PSUs through provisions in the Transaction Agreements and existing Labour Laws, there has always been a clamour by the employees of disinvested PSUs. A sense of fear and insecurity always prevails among the employees when a PSU is considered for disinvestment. The Committee are not convinced with the explanation given by the Government on behalf of new management of BALCO wherein inability of the new management to pay in one lump-sum the amount due to the employees of BALCO who have opted for VRS has been expressed. Keeping in mind the plight of employees of BALCO, the Committee come to an inescapable conclusion that the provisions and steps taken by the Government in regard to protection of employees welfare/interest are inadequate and far from satisfactory. The Committee, therefore strongly urge the Government to improve the existing provisions to ensure that the interest and welfare of the employees of disinvested PSUs are safeguarded fully.

37. The Committee are informed that in the event of contravention of transaction agreements, provisions for extensive and specific penalties are provided for ensuring interest of the employees. Since the new management of BALCO has failed to adhere to the provisions in the interest of the employees, the Committee would like to know the actual penalty imposed by the Government on the new management of BALCO for their failure to adhere to the agreements for protection of employees interest. They also want that stern action may be taken against the new managements who make such defaults in future.

Demand No. 28
Major Head : 3451
Sub-Major Head : 00.90
Minor Head : 52
Detailed Head : 52.00.28

Ministry of Disinvestment

4. Payments for Professional and Special Services

Non – Plan (In thousands of Rs.)

Year	**B.E**	**R.E**	**Actuals**
1999-2000			
2000-2001	5000	2000	79,260
2001-2002	5000	60200	60094
2002-2003	233800	313800	274300*
2003-2004	250000		

* upto 10.03.2003

38. The Government have informed the Committee that under the head "Professional and Special Services", the expenditure booked is on account of payment of professional fees to the Advisors (Financial), the Legal Advisors, the Asset Valuers, specialist agencies engaged for environmental due diligence where required, accounting firms where required, specialist agencies for undertaking valuation of mines, reserves, etc., payment to the Government Advocates for handling various litigations and payments on account of expenditure on issue of public advertisements.

39. The Committee asked the reasons for large variation between BE, RE and Actuals since 2000-2001.

40. The Government gave the reasons as stated below :

"The Advisors (Financial), the Legal Advisors, the Asset Valuers are selected through the process of competitive bidding. Financial and Legal Advisors are paid their professional fees only on completion of the transaction in question. In the case of Asset Valuers as also specialist agencies engaged for undertaking environmental due diligence, special valuations, etc., the fees are paid on completion of their assignments. The fees of the Government Advocates and payment on account of the advertisement expenses are made as and when the bills are received.
The process of selection of the Financial Advisors stipulate that the professional fee should be quoted as a percentage of the disinvestment proceeds. The Legal and other Advisors are also required to quote a lump-sum fee for the total services to be rendered. In all the cases, the fee payable emerges through the process of competitive bidding. The actual quantum of fee payable to the Advisors, particularly the Financial Advisors, who have to quote a lump-sum fee as a percentage of the disinvestment proceeds, cannot be exactly estimated since the same varies with actual realisation. The requirement under this head is, therefore, prepared on the basis of a conservative estimate of one per cent of the total book value of the extent of shares likely to be disinvested. "

41. The Committee wanted to know the break up of anticipated expenditure of Rs. 25 crore which is allocated at BE stage for the year 2003-2004.

However, the Government gave their reply as given below :-

"....the exact requirement for payment of professional fees, particularly to the Financial Advisors, cannot be estimated as the same would depend on the percentage of fees quoted and the actual receipts from the sale proceeds. Therefore, no break-up of the estimated expenditure under various items falling under the head 'Professional and Special Services' can be indicated."

42. The Committee do agree that quantum of fee payable to the Advisors, Asset Valuers, specialist agencies etc. cannot be precisely estimated as it depends on the actual receipts from the sale proceeds. However, they deplore large scale variations either between BE and RE and Actuals and hold that these are not called for. They are of the opinion that such variations indicate the financial imprudence of the Department. The Committee, therefore, desire that budgetary exercise may be taken in

such a manner so as to leave no room for major gaps between BE, RE and Actuals.

Demand No. 28
Object Head: 16
Detailed Head : 54
Ministry of Disinvestment

5. Publication

Non – Plan (in thousands of Rs.)

Year	B.E	R.E	Actuals
1999-2000			614
2000-2001	2500	1300	219
2001-2002	1500	700	635
2002-2003	5400	1300	
2003-2004	1400		

43. Under this head, the expenditure on printing of the Annual Report as also other publications of the Ministry are booked.

44. The Committee pointed out that the actuals for the year 2001-2002 was just Rs. 6,35,000 yet an amount of Rs. 54,00,000 was allocated for 2002-2003 at the BE stage which was drastically reduced to 13,00,000 at the RE stage.

45. The Government explained as below :

"In the year 2001-2002, a requirement of Rs.15 lakh was projected and provided for in the BE. The requirement was re-assessed at the RE stage and reduced to Rs.7 lakhs. However, in 2001-02, the Ministry could, apart from preparation of the Annual Administrative Report, bring out the "Disinvestment Policy and Procedures" (April, 2001), four booklets containing details about the privatisation in ABL, Lagan Jute Machinery Manufacturing Company, BALCO, Modern Food Industries (India) Limited and a publication on Understanding the Strategic Sale Agreements'."

46. In the year 2002-03, an amount of Rs.50 lakh has been provided under this head in the BE in anticipation of that the Ministry would, in addition to preparation of the Annual Report, come out with several other publications.

Keeping in view the pace of actual expenditure and the assessment of the requirement for the balance period of the financial year, the provision has been reduced to Rs.13 lakh. The actual expenditure under this head till 10th March, 2003 was Rs.11.48 lakhs. The Ministry has besides preparation of the Annual Report for 2002-03 and the second edition of the publication "Disinvestment Policy and Procedures and Progress" (which are under printing), published three other publications namely Disinvestment in States, Guidelines on Qualification for Bidders and guidelines for valuation with the title "Strategic Sale of Central Public Sector Undertakings – Valuation".

47. The Committee note with concern that the actual expenditure in 2001-2002 was even less than 50% of the BE, while it was more pronounced in 2002-2003 when it was reduced by 415% of the amount allocated at BE. The Committee are of the view that the Government have adopted a casual approach with regard to projection of estimates under this head. They further feel that this has made the mockery of the budgetary exercise. The Committee, therefore, want the Government to undertake budgetary exercise with due care and seriousness and provide realistic estimates as far as possible.

NEW DELHI;
9 April, 2003
19 Chaitra, 1925 (SAKA)

N. JANARDHANA REDDY,
Chairman,
STANDING COMMITTEE ON FINANCE

STATEMENT OF CONCLUSIONS/RECOMMENDATIONS OF THE STANDING COMMITTEE ON FINANCE IN THE FORTY SECOND REPORT (2003-2004)

Sl. No.	Para No.	Recommendations/Conclusions
1.	8 & 9	The Committee are not satisfied with the reply given by the Government where claims have been made that the policy on disinvestment has evolved overtime; its fundamental framework is stable over the medium term, and it is comprehensive and consistent. The Committee are constrained to note that the reply given by the Government is not in tandem with the reply submitted earlier by them in September, 2002 wherein they have made a request to the Committee to allow some more time to prepare and bring out the policy document mentioned above. The Committee are rather perturbed by the Government's casual approach towards the Committee's repeated recommendations to bring out a comprehensive document on Disinvestment Policy which could be laid before the Parliament for its approval. The document "Disinvestment Policy, Procedures and Progress" circulated in February, 2003 is just the second edition of similar book published earlier in April, 2001. It is, as admitted earlier by them, just a compilation of the speeches of Finance Minister, as well as other policies announced by the Government from time to time. Moreover, had this been the policy document, the Ministry would have not asked for extension of time to prepare and bring out a comprehensive policy document. Therefore, the Committee are not inclined to accept this as Policy Document as it has never been laid in Parliament for its approval. At the same time, they are unable to understand the difficulty that is being faced by the Government in formulating the comprehensive policy document. The Committee, therefore, once again desire that the Government should take note of their recommendation seriously and come forward with a comprehensive policy document on disinvestment policy and place it before the Parliament for its approval.

2.	26, 27 & 28	The Committee find that creation of Disinvestment Fund was first recommended by the Disinvestment Commission way back in 1997. The Government, however, did not seem to be in favour of creating such a fund as it maintained that proceeds from disinvested PSUs were being deposited in the Consolidated Fund of India. It was only recently that the Government has given serious thought of creating the Fund. It took about six years for the Government to set up such a fund. The Government has failed to explain the reasons for not creating the fund all these years. The Committee express their displeasure over the sorry state of affairs in this regard. The Committee are also pained to note that though the Finance Minister in his Budget Speech 2000-2001 had announced that the entire disinvestment proceeds would be utilised for meeting expenditure in social sector, restructuring of PSUs and retiring public debt, the Government on the other hand in their reply to the Committee, during Demands for Grants (2002-2003) had stated that since disinvestment proceeds were deposited in Consolidated Fund of India (CFI), there was no way to estimate how they had been spent. This in the opinion of the Committee, has frustrated the very purpose of Disinvestment. They believe that had the fund been created earlier the proceeds realised from the disinvestment activity since 1997 could have been deposited therein and as a result inflow and outflow could have been watched more effectively. The Committee, therefore, urge upon the Government to set up the disinvestment Fund without any further delay and spend the amount on the purposes which were originally envisaged under the Policy.
3.	36 & 37	The Committee are constrained to note that inspite of tall claims made by the Government to have provided full protection to employees of disinvested PSUs through provisions in the

Transaction Agreements and existing Labour Laws, there has always been a clamour by the employees of disinvested PSUs. A sense of fear and insecurity always prevails among the employees when a PSU is considered for disinvestment. The Committee are not convinced with the explanation given by the Government on behalf of new management of BALCO wherein inability of the new management to pay in one lump-sum the amount due to the employees of BALCO who have opted for VRS has been expressed. Keeping in mind the plight of employees of BALCO, the Committee come to an inescapable conclusion that the provisions and steps taken by the Government in regard to protection of employees welfare/interest are inadequate and far from satisfactory. The Committee, therefore strongly urge the Government to improve the existing provisions to ensure that the interest and welfare of the employees of disinvested PSUs are safeguarded fully.

The Committee are informed that in the event of contravention of transaction agreements, provisions for extensive and specific penalties are provided for ensuring interest of the employees. Since the new management of BALCO has failed to adhere to the provisions in the interest of the employees, the Committee would like to know the actual penalty imposed by the Government on the new management of BALCO for their failure to adhere to the agreements for protection of employees interest. They also want that stern action may be taken against the new managements who make such defaults in future.

4. 42 The Committee do agree that quantum of fee payable to the Advisors, Asset Valuers, specialist agencies etc. cannot be precisely estimated as it depends on the actual receipts from the sale proceeds. However, they deplore large scale variations either between BE and RE and Actuals and hold that these are not called for. They are of the opinion that such variations indicate the financial imprudence of the Department. The

Committee, therefore, desire that budgetary exercise may be taken in such a manner so as to leave no room for major gaps between BE, RE and Actuals.

5.	47	The Committee note with concern that the actual expenditure in 2001-2002 was even less than 50% of the BE, while it was more pronounced in 2002-2003 when it was reduced by 415% of the amount allocated at BE. The Committee are of the view that the Government have adopted a casual approach with regard to projection of estimates under this head. They further feel that this has made the mockery of the budgetary exercise. The Committee, therefore, want the Government to undertake budgetary exercise with due care and seriousness and provide realistic estimates as far as possible.

MINUTES OF THE NINTH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Wednesday, 26 March, 2003 from 1100 to 1615 hours.

PRESENT

Shri N. Janardhana Reddy – Chairman

LOK SABHA

2. Shri Raashid Alvi
3. Shri Ramesh Chennithala
4. Smt. Renuka Chowdhury
5. Shri Trilochan Kanungo
6. Shri Rattan Lal Kataria
7. Dr. C. Krishnan
8. Shri Sudarsana E.M. Natchiappan
9. Capt. Jai Narain Prasad Nishad
10. Shri Rupchand Pal
11. Shri Prakash Paranjpe
12. Shri Raj Narain Passi
13. Shri Pravin Rashtrapal
14. Shri Ramsinh Rathwa
15. Shri Kirit Somaiya
16. Shri Kharabela Swain
17. Shri Sudip Bandyopadhyay

RAJYA SABHA

18. Shri Murli Deora
19. Shri Prithviraj Chavan
20. Shri M. Rajasekara Murthy
21. Dr. Biplab Dasgupta
22. Shri Palden Tsering Gyamtso

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu - Joint Secretary
2. Shri R.K. Jain - Deputy Secretary
3. Shri S.B. Arora - Under Secretary

Part – I

X X X X X

Part –II

X X X X X

Part – III

Witnesses

Ministry of Disinvestment

1. Shri S.S. Meenakshisundaram, Secretary
2. Shri P.K. Basu, Joint Secretary
3. Shri P.V. Bhide, Joint Secretary
4. Shri Sanjeev S. Ahaluwalia, Joint secretary
5. Shri Amitabha Bhattcharya, Member – Secretary, Disinvestment Commission

2. At the outset, the Chairman welcomed the representatives of Ministry of Disinvestment to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of the representatives of Ministry of Disinvestment on Demands for Grants (2003-2004) of the Ministry of Disinvestment.

4. The Chairman requested the representatives of Ministry of Disinvestment to furnish notes on certain points raised by the Members to which replies were not readily available with them during the discussion.

5. The evidence was concluded.

6. A verbatim record of proceedings has been kept.

The witnesses then withdrew.

(The Committee then adjourned)

MINUTES OF THE TENTH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Wednesday, 09 April, 2003 from 1500 to 1550 hours.

PRESENT

Shri. N. Janardhana Reddy – Chairman

MEMBERS

LOK SABHA

2. Shri Ramesh Chennithala
3. Shri Trilochan Kanungo
4. Shri Rattan Lal Kataria
5. Shri Sudarsana E.M. Natchiappan
6. Shri Rupchand Pal
7. Shri Prabodh Panda
8. Shri Ramsinh Rathwa
9. Shri T.M. Selvaganapathi
10. Shri Lakshman Seth
11. Shri Kirit Somaiya
12. Shri Kharbela Swain

RAJYA SABHA

13. Dr. Manmohan Singh
14. Shri Prithviraj Chavan
15. Shri Swaraj Kaushal
16. Shri Praful Patel
17. Shri Dinesh Trivedi

SECRETARIAT

1.	Shri P.D.T. Achary	-	Additional Secretary
2.	Dr. (Smt.) P.K. Sandhu	-	Joint Secretary
3.	Shri R.K. Jain	-	Deputy Secretary
4.	Shri S.B. Arora	-	Under Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee. The Chairman also welcomed Shri Swaraj Kaushal on his nomination as a member of the Committee.

3. XX XX XX XX
XX XX XX XX

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7. After that the Committee considered the draft report on the Demands for Grants (2003-2004) of the Ministry of Disinvestment and adopted the same without any amendment.

8. XX XX XX XX
XX XX XX XX

9. The Committee authorised the Chairman to finalise the Reports in the light of modifications as also to make verbal and other consequential changes arising out of the factual verification and present the same to both the Houses of Parliament.

The Committee then adjourned.