C.P.U. No. 452

COMMITTEE ON PUBLIC UNDERTAKINGS 1981-82)

(SEVENTH LOK SABHA)

THIRTY-FIRST REPORT

Action taken by Government on the recommendations contained in the Twenty-First Report of the Committee on Public Undertakings (Seventh Lok Sabha).

ON

RASHTRIYA CHEMICALS AND FERTILIZERS LTD.

MINISTRY OF PETROLEUM, CHEMICALS AND FERTILIZERS
(DEPARTMENT OF CHEMICALS AND FERTILIZERS)

Presented to Lok Sabha and
Laid in Rajya Sabha on

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

March, 1982/*Phalguna,* 1903 *(Saka)*

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(1981-82)

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(1981-82)

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5. Shri Darur Pullaiah
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7. Shri K. Ramamurthy
8. Shri Lal K. Advani
9. Shri Shrikant Verma

INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this 31st Report on Action Taken by Government on the recommendations contained in the 21st Report of the Committee on Public Undertakings (Seventh Lok Sabha) on Rashtriya Chemicals and Fertilizers Ltd. (Ministry of Petroleum, Chemicals and Fertilizers, Department of Chemicals and Fertilizers).

2. The 21st Report of the Committee on Public Undertakings was presented to Lok Sabha on 28th April, 1981. Replies of Government to all the recommendations contained in the Report were received by 19 February, 1982. The Replies of Government were considered by the Action Taken Sub-Committee of the Committee on Public Undertakings on 5 March, 1982. The Report was finally adopted by the Committee on Public Undertakings on 9 March, 1982.

3. An analysis of the Action Taken by Government on the recommendations contained in the 21st Report of the Committee is given in Appendix.

NEW DELHI;
March 11, 1982.
Phalguna 20, 1903 (*Saka*).

BANSI LAL,
Chairman,
Committee on Public Undertakings.

CHAPTER I

REPORT

The Report of the Committee deals with the action taken by Government on the recommendations contained in the Twenty-First Report (Eeventh Lok Sabha) of the Committee on Public Undertakings on Rashtriya Chemicals and Fertilizers Ltd. which was presented to Lok Sabha on 28 April, 1981.

2. Action Taken notes have been received from Government in respect of all the 25 recommendations contained in the Report. These have been categorised as follows:—

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

Serial Nos. 1 to 3, 5 to 9, 11 to 13, 15 to 22, 24 and 25.

(ii) *Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies:*

Serial No. 10.

(iii) *Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee:*

Serial No. 23.

(iv) *Recommendations/Observations in respect of which final replies of Government are still awaited:*

Serial Nos. 4 and 14.

The Committee will now deal with the action taken by Government on recommendation No. 23:

Production Performance of Trombay I and II and Supplemental Schemes

Recommendation at Sl. No. 23 (Paragraph 4. 42)

3. The Committee had pointed out that the implementation of TrombayI and II and the supplemental schemes had not yielded the expected results and had recommended a critical study to improve the working results.

4. In their reply, the Department of Chemicals and Fertilizers have stated that the production performance and the working results of the unit|company have been good in recent years. The Company has made a profit every year since 1976-77. The working results of the plants during 1978-81 furnished by the Department, however, indicate that the level of production achieved during 1980-81 in respect of Ammonia Plant, NPK plant and Sulphuric Acid Plant was 85.34 per cent, 79.7 per cent and 81.82 per cent of the capacity and it was less than that achieved in 1979-80.

5. After examining the production performance of the Company especially in relation to ammonia, NPK and Sulphuric acid plants and taking note of the highest production level reached in 1979-80, the Committee had observed that the implementation of Trombay I and II and supplemental schemes had not yielded the expected results and called for a critical study to improve the working results. The Department of Chemicals and Fertilizers seems to have derived satisfaction from the fact that the capacity utilisation of these plants was not less than 79 percent in recent years and that the company has made on the whole profits since 1976-77. However, the fact remains that the capacity utilisation of these plants has recorded a decline in 1980-81. The Committee are, therefore, constrained to reiterate that there is scope for improving the utilisation of the capacity and that necessary steps should be taken in this regard.

CHAPTER II

RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation Serial No. 1 (Paragraph 1.34)

The Planning and implementation of Trombay I and II projects consisting mainly of Ammonia, Urea, Suphala (Nitro Phosphate), Nitric Acid, Sulphuric Acid and Methanol plants commissioned during 1965-66 by the Fertilizer Corporation of India, was reviewed by the Committee during 1968-69. The projects suffered from low production and losses. The Committee had also noticed that agreements entered into for supply of plants were defective and that there were a number of procedural and functional lapses on the part of the management. On the basis of recommendations of the Committee in their 26th Report (Fourth Lok Sabha), an Enquiry Commission (Bedi Commission) was set up in August, 1969. The Commission went into the agreements entered into with M/s. Chemical Construction Corporation (USA) for the supply of Ammonia, Urea and Nitric Acid Plants and the award of contract for the Nitro Phosphate plant to M/s. Chemicals and Industrial Corporation (USA). The Commission was expected to report within three months i.e. by November, 1969. However, it was only in March, 1979 that the Commission submitted its report, which was laid before Parliament in August, 1980. Government after considering the findings of the Commission agreed with its conclusions and treated the matter as closed. Thus it has taken nearly 10 years to inform Parliament of the outcome of the enquiry instituted on the basis of recommendation of a Parliamentary Committee. Such delays could frustrate the purpose. An expenditure of Rs. 10.22 lakhs was incurred on the Commission. The Committtee are, therefore, constrained to deal with the delay.

Reply of the Government

Government agree that there was delay in the submission of the report by the Trombay Fertiliser Commission of Inquiry. However, this was due to circumstances which could not have been foreseen.

[Department of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA.II dated 26th November, 1981]

Recommendation Serial No. 2 (Paragraph 1.35)

The Committee were informed that within two days of the setting up of the Commission of Enquiry, the Fertilizer Corporation took up with the Government, after taking legal advice, the advisability of postponing the enquiry into one of the Commission's terms of reference that related to the contract with the supplier of Nitro Phosphate Plant, Chemicals and Industrial Corporation (USA). This was on the ground that the Fertilizer Corporation's claims against the supplier of the plant were under arbitration by an Arbitral Tribunal set up by the International Chamber of Commerce. The reaction of the Govt. was that the enquiry was not likely to prejudice the arbitration proceedings and that it was open to the Fertilizer Corporation to make a suitable submission to the Commission. In an order passed in February 1970, the Commission was of the view that there was force in the submission of the Corporation However, when the ex-Managing Director, against whom the enquiry was directed, objected to the exclusion of one of the issues from the enquiry, the Commission sustained the objection (July, 1971). Thereafter fresh legal opinion was obtained by the Fertilizer Corporation and the matter was again taken up with the Government. On consultation with the Ministry of Law, the Govt. withdraw (June, 1972) the relevant issue from the terms of reference. This was contended (July, 1972) by the ex-Managing Director, stating that the Govt. had no power to amend the terms of reference. The Commission again sustained his objection. Thereupon the Govt. and the Fertilizer Corporation had to file (Oct., 1972) separate writ petitions in the Delhi High Court. The High Court stayed the proceedings of the Commission in regard to the issue in question, but the Commission did not proceed with the remaining issues. It was only after the arbitration award was finalised and the Govt. restored (Oct. 1977) the relevant issue in the terms of reference the Commission and the petitions pending in the Delhi High Court were withdrawn that the Commission proceeded furher and gave its report in March, 1979.

Reply of the Government

This para describes the sequence of events since the inception of the Inquiry Commission till the submission of its report and contains no specific recommendation on which action is called for.

[Department of Chemicals & Fertilizers O.M. No. 102(17)/
81-FDA.II dated 26th November, 1981]

Recommendation Serial No. 3 (Paragraph No. 1.36)

The Committee regret that the Government though aware of the arbitration proceedings did not specifically consider the implications either on their own or in consultation with the Fertilizer Corporation before deciding upon the terms of reference of the Enquiry Commission. This lapses created all the delay and difficulties besides entailing considerable wastful expenditure. Further, when the Commission did not agree to proceed with the remaining issues it was open to the Govt. to wind up the Commission and set up a new Commission with limited terms of reference; but this option was understandably not excercised. The result of all this was that the Commission which was expected to take 3 months took nearly 10 years to complete its work. The Committee desire that learning a lesson from this sad experience Govt. should lay down suitable guidelines and clarify the legal position of Commissions of enquiry to obviate such delays and wasteful expenditure in future.

Reply of the Government

While finalising the terms of reference of the Trombay Fertilizer Commission of Inquiry, Govt. did not consider whether the arbitration proceedings pending before the Arbitral Tribunal would have any implications *vis-a-vis* item No. 2 of the terms of reference of the Commission. Govt. did not also consult the erstwhile Fertilizer Corporation of India in this regard. In future, care will be taken to see that concerned Departments/Untertakings are consulted unless such a course is specifically considered inadvisable or unnecessary while finalising the terms of reference of such a Commission. The instructions issued on the subject are reproduced below:—

Ministry of Petroleum, Chemicals & Fertilizers (Department of *Chemical and Fertilizers*) *Office* Memorandum No. 85/3/81-FDC *dated the 25th November*, 1981 *from Shri K. P. Srivastava, Director to All Officers/Sections in the Department of Chemicals and Fertilizers regarding* 21*st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.*

The undersigned is directed to say that the Govt. of India appointed a single-member Commission under the Commissions of Inquiry, Act, 1952 in August, 1969 to enquire into certain transanctions relating to the Trombay Unit of the erstwhile Fertilizer Corporation of India (FCI), adversely commented upon by the Committee on Public Undertakings in its 26th Report (1968-69). The Commission was headed by Justic J. S. Bedi, a retired judge of the

Punjab/Haryana High Court and was required to submit its report within a period of three months. Subsequently, at the instance of the FCI, the Government deleted one of the terms of reference of the Commission as the subject matter of this item was pending before the International Arbitral Tribunal and an enquiry into that issue could have prejudiced the FCI's case before the Tribunal. The Commission however, held that Govt. had no power under the Commissions of Inquiry Act, 1952 to amend its terms of reference after its constitution. This led the Govt. to file a writ petition in Delhi High Court which stayed the enquiry by the Commission on the relevant term of reference. The Commission did not agree to commence work on other terms of reference and could proceed with its work only after the award of the Arbitral Tribunal was finalised and the Govt. restored the relevant term of reference. The above dispute resulted in substantial delay in the submission of report by the Commission of Inquiry which submitted its report only in March, 1979.

The report of the Commission of Inquiry was considered by the Committee on Public Undertakings (1980-81). In its 21st Report on the Rashtriya Chemicals & Fertilizers Ltd., the Committee pointed out that Govt. though aware of the arbitration proceedings, did not specifically consider its implication either on their own or in consultation with the FCI before deciding the terms of reference of Inquiry Commission. This lapse delayed the enquiry by the Commission and resulted in avoidable expenditure. The Committee, therefore, recommended that Govt. should lay down suitable guidelines and clarify the legal position of the Commission of Inquiry Act, 1952 to obviate such delays and wasteful expenditure.

The above recommendation of the Committee has been considered in this Ministry, in consultation with the Ministry of Home Affairs, and the view taken is that it would not be appropriate to issue general guidelines to meet different situations which may have to be considered on their own merit.

All officers in this Department are advised that, in future, the concerned undertakings/departments should be consulted unless such a course is specifically considered inadvisable or unnecessary before finalising the terms of reference of a Commission of Inquiry so that such difficulties do not arise.

[Department of Chemicals and Fertilizers O.M. No. 102(17)/81—FDA. II dated 26th November, 1981]

Recommendation Serial No. 5 (Paragraph No. 1.84)

The Trombay I and II Complex suffered from losses and low production. In order to overcome the deficiencies, a Rehabilitation Scheme, a supplementary Gasification Scheme, A Debottlenecking Scheme and a Diversification Scheme were taken up. There were delays in implementing these schemes. There were changes in scope without specific approval of the Government. There were also changes in the processes midway. All these had escallated the cost. The Schemes were implemented between 1968 and 1979. The production was still below capacity.

Reply of the Government.

The observations of the Committee on some of the causes for cost escalations in the schemes intended to make good the deficiencies on Trombay I and II complexes, and to improve the profitability of these, have been considered carefully and appropriate remedial action taken as indicated below.

In regard to reducing the delays in the implementation schemes, there is now regular and systematic review of the execution of various projects, expansions and other schemes which are under implementation. Such reviews are taken at the level of the Chairman & Managing Director of the Company, the Board of Directors and Government. The review meetings monitor progress, identify delays, if any, and outline corrective action to be taken.

Major changes in scope/process, if any, which may arise on sanctioned projects in future, are required to be got approved by the competent authority well in time and before taking action in regard to them.

In regard to the observations about low production at some plants the position has improved considerably as can be seen from the Table furnished in reply to the recommendation No. 23 on page 30

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981.]

Recommendation Serial No. 6 (Paragraph No. 1.85)

The Rehabilitation Scheme envisaged besides setting up a Phosphoric Acid Plant (cost: Rs. 1.5 crores), replacements, additions and modifictions to the existing plants at an estimated cost of Rs. 100.20 lakhs (later revised to Rs. 83.61 lakhs). The scheme was approved by the Board in August, 1967 and was to be executed within 3 years. A review made in September, 1970 indicated that 5 key items involving a cost of Rs. 39.59 lakhs had not been installed. Although a special cell was set up in 1967 to monitor the implementation of the scheme, it was only on 11th February, 1969 and that too at the instance of the Board that a progress report on implementation of this scheme was submitted for the first time. Further progress was neither reported to the Board nor called for by it. Thus after sanctioning the rehabilitation scheme in 1967, the Board did not bother to keep itself abreast to the progress of this scheme. This lapse cannot but be deplored.

Reply of the Government.

Action has been taken to avoid in future the types of lapses pointed out by the Committee. Now, the Board reviews the progress of implementation of all the projects. The progress of each project and scheme is also being reviewed every week in a meeting taken by the Chairman and Managing Director.

[Deptt. of Chemicals & Fertilizers O. M. No. 102(17)/81—FDA. II dated the 26th October, 1981]

Recommendation Serial No. 7 (Paragraph No. 1.86)

While conveying Government's approval in principle to the installation of Phosphoric Acid Plant of the capacity of 100 tonnes per day of P2O5 at an estimated cost of Rs. 1.5 crores on a turnkey basis within a period of 20 months, the Ministry had desired that tenders for the supply of imported equipment for the plant should be invited only from Germany, Japan, USA and U.K. The Ministry had also made it clear that before-placing any firm orders or making any foreign exchange commitment, FCI should obtain from Government specific release of foreign exchange. Instead of following this course of action, the Corporation decided in May, 1969 to entrust installation of this plant to its P & D Divison. Even though most of the Phosphoric Acid Plants operating all over the world were based on dihydrate process the Corporation went in for Nissan's hemi-hydrate process and entered into an agreement with International Ore and Fertilizer Corporation (Inter Ore) for that process without obtaining prior approval of Government. The Corporation should have made an assessment of the comparative advantages of having the job executed on turn kay basis through a foreign contractor. It failed to do that. The project estimates of the Phosphoric Acid Plant were revised by the Corporation as many as five times. The project cost went up from Rs. 1.50 crores to Rs. 5.04 crores. There was delay in commissioning of the Plant. It was commissioned in 1975. The final cost estimate of Rs. 5.04 crores was approved by Government in February, 1979. There has thus been no clear concept of the plant initially and piecemeal changes have taken place. These had resulted in needless cost escalation.

Reply of the Government

The procedures for investment appraisals are now better defined than was the case when the events referred to in the COPU report took place. All investment proposals which involve foreign exchange on licences, engineering and consultancy services, etc. are invariably appraised and cleared by the Special Committee of Secretaries on Fertilizer Projects. New investment proposals which are within the powers of the Board of Directors of the public sector companies to sanction (where foreign exchange commitments are not involved) are scrutinised by the Board on which the officers of the Department are also appointed. Such of the proposals which are beyond the powers of the Board to clear, are subjected to scrutiny and clearance by the Department of Chemicals and Fertilizers/the Expenditure Finance Committee/Public Investment Board. Before approving the proposals they are subjected to a detailed scrutiny in which the Planning Commission, the Ministries of Finance, Agriculture, Bureau of Public Enterprises, etc. are involved. After a scheme is approved its implementation is now being monitored closely by the Board of the Company as well as the Deptt. of Chemicals and Fertilizers. The observations of the Committee have been brought to the notice of the public sector fertilizer companies under the administrative control of this Department with a request to monitor the projects closely and to avoid piecemealness in approach. The instructions issued on the subject is reproduced below:—

Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) letter No. 102/17/81-FDA-II dated 26th October, 1981 from Shri V. V. Ramasubba Rao, Director to the Chairman and Managing Directors of Fertilizer Corporation of India Ltd./Rashtriya Chemicals and Fertilizers, Ltd./Fertilizers and Chemicals Travancore Ltd./Fertilizers (Planning and Development) India Ltd./Madras Fertilizers Ltd./National Fertilizers Ltd./ Pyrites, Phosphates and Chemicals Ltd. regarding 21st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.

The Committee on Public Undertakings (1980 81) in their 21st Report on Rashtriya Chemicals & Fertilizers have, while dealing with the installation of Phosphoric Acid Plant at Trombay, made the following observations:

"While conveying Government's approval in principle to the installation of 100 tonnes of Phosphoric Acid Plant, the capacity at an estimated cost of Rs. 1.5 crores on a turn-key basis within a period of 20 months. Government approved the proposal in principle and advised to follow the prescribed procedure for tenders for the supply of imported equipment for the plant from Germany, Japan, USA and U.K. However, the Corporation decided in May, 1969, to entrust installation of this plant to its P&D Division. Even though most of the Phosphoric Acid Plants operating all over the world were based on dihydrate process the Corporation went in for Nissan's hemi-hydrate process and entered into an agreement with International Ore and Fertilizer Corporation (Inter Ore) for that process without obtaining assessment of the comparative advantages of having the job executed on turn-key through a foreign contractor. It failed to do that. The project estimates of the Phosphoric Acid Plant were revised by the Corporation as many as five times. The project cost went up from Rs. 1.50 crores to Rs. 5.04 crores. There was delay in commissioning of the plant. It was commissioned in 1975 the final cost estimate of Rs. 5.04 crores was approved by Government in February, 1979. There has thus been no clear concept of the plant initially and piecemeal changes have taken place. These had resulted in needless cost escalation."

2. The above recommendation of the Committee is being brought to your notice with a request that you should take note of the above observations and ensure that while scrutinising the projects/schemes to be taken up by your Company all the aspects are fully considered so as to avoid piecemealness of approach.

[Department of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981]

Recommendation Serial No. 8 (Paragraph No. 1.87)

Under the Agreement entered into by the Corporation with Inter Ore in May, 1970 for Nissan hemi-hydrate process know-how the Inter Ore was liable to the extent of lump sum licence and know-how fees, if it failed to demonstrate its performance guarantee. Performance guarantee tests were however, not carried out within the guarantee period of one year because of deficiencies and repeated failures of equipment. Test runs were, however, conducted a few days after the expiry of the guarantee period and the Board informed that there was no limitation on the plant on account of system concept or design for which Nissan alone could be held accountable. The performance of the plant did not bear out this. As against the rated capacity of 30,000 tonnes per annum, the highest level of production achieved so far was 20,534 tonnes in 1979-80. The result was that shortage of Phosphoric Acid had to be made good by the continued use of imported di-ammonium phosphate. Thus the object of setting up this plant has not been achieved fully so far. It is distressing that the plant was initially accepted without performance guarantee test and contractor absolved of liability.

Reply of the Government

(a) In regard to the observation of COPU that the objectives of setting up the phosphoric acid plant had not been achieved fully, RCF have reported that the output from the plant which was only 20,534 tonnes (70 per cent of rated capacity) in 1979-80 has since improved to 24,489 tonnes (82 per cent* of rated capacity) in 1980-81, which is considered in the industry as a good level of production for such plants.

(b) In regard to the second observation that the contractor was absolved of liability when the plant was initially accepted without a performance guarantee test, it has to be pointed out that the foreign consultant whose proprietary process was used in the plant was not contractually liable for selection, supply or performance of individual equipment or the hardware which went into the plant. This responsibility was retained by the Corporation and its in-house engineering services wing. The operating units did carry out a performance test before taking over the plant from the engineering wing of the Corporation, but only after the items of equipment which were subject to repetitive failures were duly replaced or effectively repaired. The flaws in the contractual arrangements which lead to multiparty responsibility have been duly noted. In order to define accountability clearly, the more recent contracts are being drawn up on the basis of a simpler bipartite allocation of responsibilities, whether the contracting parties be two Public Sector Undertakings (PSUs) or a PSU and an independent principal engineering consultant.

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981]

*At the time of factual verification, the Audit pointed out that this figure works out to be 81.63 per cent.

Recommendation Sl. No. 9 (Paragraph No. 1.88)

The Suplementary Gasification Scheme was taken up to restore the capacities of Ammonia and Methanol Plant. Neither the cost estimates nor the schedule of commissioning was adhered to. The original project estimates of Rs. 2.29 crores was revised in November, 1970 to Rs. 3.06 crores. The actual expenditure was higher still i.e. Rs. 3.46 crores. It was approved by the RCF Board in August, 1978, 4½ years after the commissioning of the plant. There was a further delay of 2 years in furnishing information to Government as the Techno-economic Feasibility Report called for by the Ministry was not readily available and what is worse the Ministry's letter itself was misplaced in RCF's office. The approval of Government is yet to be accorded. According to the Schedule of commissioning, as determined in November, 1970 the facility was to be established by March, 1973. There was, however, delay of about a year before it became operational. The delay in commissioning was mainly due to P&D Division having used in the Reformer their own catalyst which was found to be disintegrating during operation and had to be used alongwith two varieties of GCI's catalyst. The initial experiment thus did not prove to be a success.

Reply of the Government

To avoid lapses of the type pointed out by COPU a system of close monitoring of the progress of various schemes under implementation has been introduced and is being followed. Regular quarterly reviews of the progress of schemes are being carried out by the Ministry. During these reviews it is checked that the companies have not exceeded the approved estimates of expenditure. Regarding the approval of the Supplementary Gasification Scheme, it has been given by the Board of Directors of RCF in March, 1981. Since the cost is less than Rs. 5 crores, the RCF Board is competent to give its approval and government approval is not necessary. Though there was a limitation on the performance of this plant initially, the Scheme has enabled methanol production to be maintained at record levels as the following performance figures of the plant during the last three years indicate:—

Year	Output ('000 tonnes)	Capacity Utilization
1978-79	34·0	90·7%
1979-80	40·0	106·7%
1980-81	37·0	98·7%

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated the 26 October, 1981.]

Recommendation Serial No. 11 (Paragraph No. 1.90)

The Diversification Scheme was launched by the Corporation to improve the profitability of the Trombay I and II Units. Of the six plants covered by this scheme, Ammonium Bicarbonate and concentrated Nitric Acid plants were able to earn cumulative profits of Rs. 43.54 lakh and Rs. 170.24 lakhs respectively up to 1977-78, the operations of Methylamine Plant, Dimethylether Recovery Plant, Sodium Nitrite/Nitrate Plants and Carbon Recovery Plant resulted in cumulative losses to the extent of Rs. 30.53 lakhs, Rs. 9.85 lakhs, Rs. 15.31 lakhs and Rs. 50.71 lakhs respectively up to 1977-78. No formal performance guarantees were provided in the case of certain plants as for example the Ammonium Bicarbonate and Sodium Nitrite/Nitrate plants on the plea that these plants were based on "In-house (P&D) design and engineering" and that there were no formal guarantees to be proven. Now that the P&D Division has become a separate company, in future, the contracts with them should provide for performance guarantee in order that there may not be any costly experiments within the Public Sector any more.

Reply of the Government

The recommendation of the Committee is accepted by Government. A letter has been issued (reproduced below) to all the Public Sector fertilizer companies under the administrative control of this Department advising them that while entrusting any schemes to public sector engineering companies like Fertilizer (Planning and Development) India Limited (FPDIL), FACT Engineering and Design Organisation (FEDO), Engineers India Ltd. (EIL) etc. they should ensure that they enter into formal agreements which provide, among other things, meaningful performance guarantees backed by suitable penalty clauses to that costly experiments within the Public Sector are avoided.

Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemical and Fertilizers) letter No. 102/17/81-*FDA-II dated* 26th *October,* 1981 *from Shri V. V. Ramasubba Rao, Director to the Chairman and Managing Directors of Fertilizer Corporation of India Ltd./Rashtriya Chemicals and Fertilizers Ltd./Fertilizers and Chemicals Travancore Ltd./Fertilizers (Planning and Development) India Ltd./Madras Fertilizers Ltd./National Fertilizers Ltd./ Pyrites, Phosphates and Chemicals Ltd. regarding* 21*st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.*

The Committee on Public Undertakings (1980-81) in their 21st report on Rashtriya Chemicals and Fertilizers have, while discussing the Diversification Scheme of RCF, observed as follows:—

The Diversification Scheme was launched by the Fertilizer Corporation to improve the profitability of the Trombay I and II units. Under the Scheme, Ammonium Bicarbonate and Sodium Nitrite/Nitrate plants were entrusted to P&D Division of FCI for designing and Engineering. No formal performance guarantees were, however, provided in the case of these plants on the plea that these plants were based on "In-house (P&D) design and engineering" and that there were no formal guarantees to be proven. The Committee, therefore, recommended that now that the P&D Division has become a separate company, in future, the contracts with them should provide for performance guarantee in order that there may not be any costly experiments within the Public Sector any more.

2. The above recommendations of COPU has been accepted by Government. Your campany may be entrusting some of your schemes to Public Sector Companies like Fertilizer (Planning and Development India Limited, (FPDIL), FACT Engineering and Design Organisation (FEDO), Engineers India Limited (EIL). You are requested to ensure that whenever you entrust your schemes to any such companies you enter into formal agreements with the companies which provide for among other things, meaningful performance guarantees backed by suitable penalty clauses. Such provisions would result in avoiding costly experiments, at the cost of your company, within the Public Sector.

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated the 26 October, 1981.]

Recommendation Serial No. 12 (Paragraph No. 2.13)

Trombay IV project covering mainly Nitric Acid and Ammonium Nitrophosphate Plants was approved by Government in July, 1970 at an estimated cost of Rs. 43.60 crores to produce 6.60 lakh tonnes of complex fertilizers (NPK 20:20:0) with 60 per cent water soluble P205 by employing sulphate recycle process developed by Stamicarbon of Holland. The project was to be based on imported ammonia. As assessment made by the Corporation in October, 1971 placed the capital requirements of this project at Rs. 57.68 crores. Government posed this project to the World Bank for financing in view of the substantial foreign exchange involved. How unsound was this Project as formulated by the Corporation and initially approved by Government can be gauged from the fact that an appraisal mission of the World Bank came to the conclusion that the project was not suitable for financing due to complexity of the processes, high capital cost, difficulties of marketing a relatively low nutrient product with low phosphate water solubility and low economic return. It is clear that the Fertilizer Corporation did not explore the possibility of increasing production in the existing NPK and Urea plants which were working at 60 to 65 per cent of the capacities instead proposed to instal additional capacities at a heavy cost to the exchequer. The Committee note that it was only after the World Bank Mission had made a suggestion that the Corporation finalised the debottlenecking scheme for Trombay I & II. The result was that the size of Trombay IV project could be pruned, the intake of imported ammonia reduced and the project cost cut down. The revised Trombay IV envisaged production of 3.75 lakh tonnes of complex fertilizers per annum at a cost of Rs. 37.5 crores excluding the capital outlay required for ammonia terminal facilities. The revised project was to use crystalisation process. As a result of the change from the sulphate recycle process to crystallization process for production of the complex fertilizers, the basic design fee of Rs. 8.64 lakhs already paid by the Corporation to M/s. Stamicarbon of Holland became infructuous.

Reply of the Government

An observation has been made by COPU that the project originally formulated by FCI was unsound since, according to the World Bank, the processes used were complex, capital cost high, marketing difficulties likely to crop up as nutrient content was low and phosphate water solubility was low. The following particulars are relevant in this context:—

	FCI proposal (original)	Scheme accepted by World Bank
Product output	6·6 lakhs to/yr	3·75 lakh to /y
Product grade .	20/20/0	20·4/20·4/0 to 21/21/0 depending on rock used
% water solubility of P205 in product .	60%	60%
Capital outlay	Rs. 57·68 crores (at 1971 estimate)	Rs. 37·5 crores
Process Licensor .	Stamicarbon	Stamicarbon for NP, Friedrick Uhde for Calcium Nitrate conversion.

It can be seen from this that water solubility remained the same (60 per cent) in the original scheme not approved by the World Bank and the final scheme approved by the World Bank. There is no significant change between the two schemes in the product grade either. The main objection of the World Bank to the original scheme was that for one of the steps, *viz.*, re-conversion of the precipitated calcium sulphate to ammonium sulphate for recycle in the sulphate recycle route selected by the Company, there was no operating unit where the process had been commercially established. FCI, therefore, re-examined the proposal and changed the route from sulphate recycle to the calcium nitrate crystalization route. It also reduced the output from 6.60 lakh tonnes per annum to 3.75 lakh tonnes per annum.

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated the 26 October, 1981.]

Recommendation Serial No. 13 (Paragraph No. 2.14)

It is indeed distressing that there is hardly any plant or project at Trombay which was commissioned on time or within the estimated cost. Trombay IV project which was scheduled to commence commercial production in April, 1977 could not start even trial production by that time. The trial production started a year later and commercial production 9 months thereafter. The projcet estimate was revised from Rs. 37.5 crores to Rs. 44.01 crores. In November, 1975, the project cost was again revised to Rs. 76.27 crores.

Reply of the Government

Regular monitoring of implementation of the projects is now being carried out to ensure that there are no avoidable cost and time over runs. Greater scrutiny is also being made of the estimates to ensure that they are as realistic as possible and there is no under estimation or over estimation of the costs.

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated the 26th October, 1981]

Recommendation Serial No. 15 (Paragraph No. 2.31)

Yet another project which suffered from time slippage and cost escalation was Trombay V fertilizer project. According to the approval accorded by the Government in October, 1974, Trombay V which envisaged setting up of a 900 tonnes per day Ammonia plant and 780 to 860 tonnes per day Urea plant at an estimated cost of Rs. 111.40 crores was to commence commercial production in April, 1978. The Ammonia Plant was to be based on fuel oil as feed stock. Later it was decided to have a plant primarily to process naphtha but capable of changing over to Bombay High gas as feedstock. The cost of the project was revised to Rs. 169.97 crores in August, 1976. The variation between 1974 and 1978 cost estimates works out to Rs. 79.72 crores on the basis that the original estimate for the gas-based project would have been Rs. 90.25 crores. The revised estimate was approved by Government only in April, 1980 by which time the actual expenditure vastly exceeded the approved original estimate. The Committee deprecate this tendency on the part of public enterprises to exceed the sanctioned costs and present a fait to accompli to Government. This tendency should be curbed.

Reply of the Government

The Recommendation of the Committee that the tendency on the part of some public sector undertakings to exceed sanctioned costs and present a fait-accompli to Government should be curbed is accepted by Government. A letter has been written to all the public sector fertilizer companies under the administrative control of this Ministry advising them to ensure that the previous sanction of Government is obtained before incurring any expenditure exceeding the cost estimates approved by Government. The text of the letter is reproduced below.

It may be added here that this is not a case of the Company presenting a fait-accompli to Government. In view of the then promise of the availability of gas as feedstock, Government wanted to have a fresh look at the feedstock of the plant. When firm indications were given about the availability of gas, Govt. decided to switch over the feedstock to gas. It took some time for Govt. to arrive at the decision to change the feedstock and this had resulted in escalation.

Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) letter No. 102/17/81-FDA-II dated 26th October, 1981 from Shri V. V. Ramasubba Rao, Director to the Chairman and Managing Directors of Fertilizer Corporation of India Ltd./Rashtriya Chemicals and Fertilizers Ltd./Fertilizers and Chemicals Travancore Ltd./Fertilizers (Planning and Development) India Ltd./Madras Fertilizers Ltd./National Fertilizers Ltd./Pyrites, Phosphates and Chemicals Ltd. regarding 21st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.

The Committee on Public Undertakings (1980-81) in their 21st Report on Rashtriya Chemicals & Fertilizers Limited have, while dealing with the Trombay V Project, made the folliwing observations:—

> "Yet another project which suffered from time slippage and cost escalation was Trombay V fertilizer project. Accomrding to the approval accorded by the Government in October, 1974, Trombay V which envisaged setting up of a 900 tonnes per day Ammonia plant and 780 to 860 tonnes per day urea plant at an estimated cost of Rs. 111.40 crores was to commence commercial production in April, 1979. The ammonia plant was to be based on fuel oil as feedstock. Later it was decided to have a plant primarily to process Naphtha but capable of changing over to Bombay High gas as feedstock. The cost of the project was revised to Rs. 169.97 crores in August, 1978. The variation between 1974 and 1978 cost estimates works out to Rs. 79.72 crores on the basis that the original estimate for the gas based project would have been Rs. 90.25 crores. The revised estimate was approved by Government only in April, 1980 by which time the actual expenditure vastly exceeded the approved original estimate. The Committee deprecate this tendency on the part of public enterprises to exceed the sanctioned costs and present a fait accompli to Government. This tendency should be curbed."

2. Government have accepted this recommendation. As you are aware Government have issued instructions from time to time laying down the circumstances under which the cost estimates of the projects/schemes of a company have to be got approved by the Government. Nevertheless, it has been noticed that sometimes the undertakings incur expenditure far in excess of the approved estimates and later on approach Government with a fait accompli. As observed by the COPU this tendency must be curbed. You are, therefore, requested to enusre that in all such cases where the actual expenditure is likely to exceed the approved estimate and the revised estimate requires Government approval, you obtain prior and timely approval of Government to the revised estimates. You should ensure that no expenditure is incurred any time in excess of the approved estimates. It may be added that no funds would be released by Government to incur expenditure in excess of the approved estimates.

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated the 26th October, 1981.]

Recommendation Serial N.o 36 (Paragraph No. 2.32)

Incidentally the Committee note that the cost estimates prepared from time to time do not provide for any escalation element and that these are at constant prices applicable to the year in which the estimates are prepared. The Committee feel that while this procedure will hold good for preparing feasibility report as it could be assumed that, in an inflationary situation, both project cost and benefits would increase more or less the same order. But while preparing the detailed cost estimates a fair approximation of the cost over the entire construction period has to be attempted. This would obviate frequent revision of the estimates. This question should, therefore, be gone into by the Ministry of Finance.

Reply of the Government

This recommendation of the Committee has been examined by the Ministry of Finance who have the following comments:—

The need for revision of estimates arises on account of various reasons including escalation in prices, change in scope, omission to provide for or inadequate provision at the time of preparation/finalisation of estimates, variation in the exchange rate, change in the statutory levies like custom duty, etc. The current practice is to make broad estimates at the time of preparation of feasibility report by relying on the prices ruling near about the date of taking investment decision with the provision that the estimates are firmed up within a period of one year on the basis of a detailed project report. A provision of 5 per cent for contingency on plant and machinery and 3 per cent on other works is allowed. It is true that no forward escalation is provided for either at the time of preparation of feasibility report or at the DPR stage. This is on account of the fact that it is not possible to anticipate with reasonable approximation the escalation which is likely to take place in the course of implementation of the project. Even by providing for forward escalation, the revision of the project cost cannot be eliminated altogether on account of time over-run or changes in the levies etc.

In order to avoid frequent references to Expenditure Finance Committee/Public Investment Board and the Cabinet, the Ministry of Finance have delegated powers for the approval of excess over firmed-up cost estimates upto (i) 10 per cent for the projects estimated to cost upto Rs. 50 crores (ii) Rs. 5 crores or 7½ per cent of the project cost whichever is higher where the projects costing more than Rs. 50 crores but below Rs. 200 crores (iii) Rs. 15 crores or 5 per cent of the project cost whichever is higher where projects estimated cost is Rs. 200 crores and above. In view of the above, the existing provisions seems sufficient to take note of the recommendation of the Committee.

[Deptt. of Chemicals & Fertilizers O.M. No. 102(17)/81-FDA. II dated the 26th October, 1981.]

Recommendation Serial No. 17 (Paragraph No. 2.33)

The Committee have been informed that Trombay V project is likely to be commissioned only in July, 1981. This delay of more than 3 years has been attributed to delay on the part of foreign engineering contractor; delay in the detailed engineering by FPDIL, the delay in procurement of raw materials for fabrication of indigenous equipment, delay in receipt of imported and indigeneous equipment, etc. The Committee note that the Ammonia to be produced in Trombay V was to be partly used for the Ammonia Nitrophosphate production in Trombay IV. It is, therefore, unfortunate that the commissioning of Trombay is delayed and the Ammonia continues to be imported for Trombay IV.

Reply of the Government

The Trombay V project has been completed mechanically. The Bombay Municipal Corporation have given clearance to this project.

The commissioning activities have been taken on hand. Urea was produced (with ammonia and CO_2 from Trombay IV plant) on 9th October, 1981. The commissioning of the ammonia plant is under way. The plant is expected to go into commercial production shortly.

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA.II dated 26th October, 1981]

Recommendation Serial No. 18 (Paragraph No. 2.34)

After reviewing the implementation of Trombay I and II projects in 1968-69 and examining now the execution of the supplemental schemes, which were taken up to overcome the deficiencies of Trombay I and II units, and the expansion projects, Trombay IV and V, the Committee are left with an impression that the project formulation and implementation were marked by ubiquitous piecemeanless of approach. The authorities have not evidently learnt much from past experience. Lack of foresight and coordination, wrong choice of technology, defective contracts, absence of monitoring and control of physical and financial progress of projects, non-enforcement of performance guarantee and disregard of financial discipline are some of the outstanding features of the style of their functioning and these have endured. The Committee's findings should, therefore, be carefully studied and improvements in the system made. This should be the responsibility of the Administrative Ministry. It should be particularly ensured that in future projects are completed under time bound programme in order to avoid cost escalation and loss of production. The Committee would urge immediate action in this regard as the prestigious Projects like Thal Vaishet Project, which entails an outlay of Rs. 889 crores, have been taken up for implementation. Any lapse of the kind noticed earlier would prove to be very costly indeed.

Reply of the Government

The findings of the Committee have been carefully studied. Under the improved monitoring system now in force in the Department, a close monitoring is carried out of the projects under implementation. This is particularly so in respect of major projects like the Thal Fertilizer Project. The Government Directors from this Department on the Boards of the companies also keep a close watch in the Board on the progress of the projects. A special procedure for purchase of equipment has been evolved for the Thal Project so that RCF can take expenditious action in the matter. Special endeavours are being made by the Department to see that the projects are implemented in a time bound, cost bound manner and avoidable cost and time over runs are not incurred.

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA.II dated 26th October, 1981]

Recommendations Serial Nos. 19 to 22 (Paragraph Nos. 3.40—3.43)

The gas-based Thal Vaishet Fertilizer Project, which would be the world's largest single producer of urea from any one location, was approved by Government in May, 1979 at a cost of Rs. 511.34 crores. The project mainly consisting of two 1350 tonnes per day Ammonia plants and three 1500 tonnes per day urea plants was expected to be commissioned within 45 months of signing of engineering contract for the Ammonia Plants. There was, however, inordinate delay in selection of Engineering Consultants and according to a revised estimate the project would cost Rs. 889 crores. The Committee, therefore, went into the delay.

A need for foreign engineering consultants having been felt for this project as well as the project at Hazira, six international engineering concerns were identified (December, 1977) for inviting bids for the ammonia plants. These were M/s. C. F. Braun (USA), Holddor Topsee (Denmark), Humphreys and Glassgow (U.K.), Uullman Kellogg (USA), Techniment (Italy) and Toyo Engineering Company (Japan). Bids were invited from these parties for the two ammonia plants to be set up at Thal Vaishet. The parties were also asked to quote their fees in case the two plants at Hazira were also awarded to them. The bids received were examined by a Negotiating Committee which was assisted by an Evaluation Committee. Thereafter negotiations were held with the three lowest bidders and the bids re-valuated. The intention then seems to have been to have the same technology for both Thal Vaishet and Hazira plants. The Department of Chemicals and Fertilizers also made its own evaluation. All the evaluations showed that the offer of M/s. C. F. Braun was the lowest. The matter was then considered by the Special Committee of Secretaries on Fertilizer Projects which recommended (June, 1979) selection of M/s. C. F. Braun as the consultants. The recommendation was accepted (August, 1979) by Government. A draft contract was also finalised (December, 1979).

There was, however, a reconsideration of the issue by the Government after January, 1980. An expert committee was set up to consider the relative merits of all the six parties and to examine whether it would be desirable to choose the same consultant for both sets of plants. All the parties were then asked to update their bids. The Expert Committee while recommending (June, 1980) that M/s. C. F. Braun be selected as the consultant for plants at Thal Vaishet, felt that he negotiated draft contract would require improvement in regard to legal commitments for performance guarantees, penalties, breach of contract etc. and non-dilution of transfer of technology even if no commitment was made for more than two plants. The majority view of the committee was that taking all factors into account the risk of having one consultant for both Thal Vaishet and Hazira Projects was not of an acceptable degree. The whole matter was then referred (July, 1980) to a Committee of Ministers. The committee accepted the majority view of the Expert Committee but the unanimous decision that M/s. C. F. Braun should be selected as the consultant for Thal Vaishet plants was turned down mainly on the ground that M/s. C. F. Braun had no experience of having built and operated a plant in India and the proposed contract suffered from legal lacuna. They were of the view that Haldor Topsoe should be selected for Thal Vaishet project and Pullman Kellogg for Hazira project. This was accepted by the Government (September, 1980).

The matter has already been discussed in Parliament. The Committee note that there are important policy issues involved. The anxiety of the Government seems to have been to balance the economy consideration against the reliability of the technology in Indian conditions and the need for a choice between forward looking technologies for future application. The Committee also note that according to Government there will not be any financial loss in accepting the final offer of Haldor Topsoe and rejecting that of M/s. C. F. Braun. The Committee trust that this has been borne out by an expert evaluation. However, the fact remains that on account of the delay of nearly 2 years in fixing up the consultant the cost of the Thal Vaishet project has considerably increased. The Committee, therefore, desire that there should be a clear policy and a well designed procedure for selection of foreign consultants to enable expeditious decisions. The Committee trust that the claims of Haldor Topsoe especially in regard to construction costs would actually materialise. A strict watch on the performance would be necessary and any further tie up with them should be decided on the basis of this performance.

Reply of Government

The Committee's views on the policy and procedure for selection of foreign consultants are noted. Government have all along been keen to obtain proven and reliable technology and make arrangements for transfer of that technology to Indian Engineering parties to enable them to set up similar plants in future in India. Accordingly, two proven and reliable technologies have been chosen for the Thal and Hazira plants and arrangements made for transfer of technology to Indian public sector engineering companies. A strict watch will be kept on the performance of the foreign consultant chosen in this case.

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA.II dated 26th October, 1981]

Recommendation Serial No. 24 (Paragraph No. 4.43)

As on 31st March, 1980, the cumulative profits of RCF after adjusting is held and documents are sent to the shareholders sufficiently to believe, after examining the working of RCF, that the profits are there because of the retention price for fertilizer. There should be a machinery to ensure cost efficiency of fertilizer units. Of the products of RCF, urea is clearly unprofitable. The cost of production in old Ammonia and Urea plants are stated to be high because the plants are based on technologies of the sixties. and do not have the economies of scale available in current Ammonia and Urea Plants. The company is following a system of process costing for ascertaining the cost of production of various products and intermediate products but profit or lass on each product is not worked out. Estimated costs of production are based on the revenne budget for a given volume of production for a particular period. The Committee have been informed that the Management is now considering using a Standard Cost System based on the retention price norms. The Committee desire that the system should be settled in consultation with the C & AG of India.

Reply of the Government

The retention price is fixed in such a manner that the company makes a profit only when the capacity utilisation and efficiency of operation are reasonably good*. The profits made by R. C. F. indicate its good performance.

Standard cost based on retention price norms has been adopted from 1981-82. C & AG is also being consulted†.

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA.II dated 26th October, 1981]

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*At the time of factual verification the Audit pointed out that the above statement is not borne out by the particulars of capacity utilisation (given in the table in reply recom-mendation No. 23) which remained almost static during all the 3 years 1978-79, 1979-80 and 1980-81 though profit has increased from Rs. 14 crores in 1978-79 to 18.53 crores in 1980-81.

†At the time of factual verification the Audit intimated that no reference has been received in their office so far.

Recommendation Serial No. 25 (Paragraph No. 4.44)

The Annual General Body Meetings were held either at short notice or without circulating of documents in advance along with the notice. The Company obtained *ex post facto* consent of the Shareholders. For the meeting held on 29th August, 1979 the documents were handed over to the Shareholders at the meeting. The Committee expect meaningful participation by the shareholders in the General Body Meetings. They would therefore stress that adequate notice should be given and the documents should be circulated sufficiently in advance.

Reply of the Government

Government accept the above recommendations of the Committee. A letter has been written to all the public sector fertilizer companies under the administrative control of the Department of Chemicals and Fertilizers advising them to ensure that adequate notice is given to the shareholders before the Annual General Meeting is held and documents are sent to the shareholders sufficiently in advance so that there could be a meaningful participation in the meeting. The text of the letter is reproduced below:

Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) letter No. 102|17|81-FDA-II dated 26th October, 1981 from Shri V. V. Ramasubba Rao, Director to the Chairman and Managing Directors of Fertilizer Corporation of India Ltd.| Rashtriya Chemicals Travancore Ltd./Fertilizers (Planning and Development) India Ltd./Madras Fertilizers Ltd./National Fertilizers Ltd./Pyrites, Phosphates and Chemicals Ltd. regarding 21st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.

The Committee on Public Undertakings (1980-81) in their 21st report on Rashtriya Chemicals and Fertilizers have, while dealing with the issue of holding of Annual General Meetings, made the following observation:—

"The Annual General Meetings were held either at short notice or without circulating of documents in advance alongwith the notice. The company obtained *ex post facto* consent of the Shareholders. For the meeting held on 29th August, 1979, the documents were handed over to the Shareholders at the Meeting. The Committee expect meaningful participation by the Shareholders in the General Body Meeting. They would therefore, stress that adequate notice should be given and the documents should be circulated sufficiently in advance."

The above recommendation of the Committee has been accepted by Government. You are requested to ensure that adequate notice is given to the shareholders before holding the Annual General Meeting. The provisions of the Articles of Association of the Company law should be followed scrupulously. The documents should also be circulated sufficiently in advance so that the shareholders can have meaningful participation in the General Body Meeting.

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981]

CHAPTER III

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

Recommendation Serial No. 10 (Paragraph No. 1.89)

The Debottlenecking Scheme prepared at the instance of the World Bank to remove bottlenecks in the existing NPK Plant was completed in August, 1975 instead of in December, 1974 as scheduled. The delay in this case has been attributed to delay in placing orders for certain equipments. After the scheme was commissioned, the composition of the complex fertilizer was changed in March, 1976 from Suphala 15:15:15 to APSN 20:20:0. After a study made by M/s. Technip for which a sum of Rs. 1.42 lakhs was paid, certain modifications to the Urea Plant at an estimated cost of Rs. 1.29 crores were proposed and approved by Government in June, 1973. When in September, 1974, Government approved the Trombay V project, modifications to the Urea Plant became unnecessary and the expenditure of Rs. 1.42 lakhs rendered infructuous. Here again a piecemeal approach is clearly evident.

Reply of the Government

Production of APSN 20:20:0 was in addition to whatever Suphala (15:15:15) could be made out of the available Nitric Acid and thus the change in the plan was towards better use of the new facility.

The only difference between a 15:15:15 product and a 20:20:0 product is that the former contains the potash as a nutrient in equal proportion to nitrogen and phosphorus, whereas in the latter no potash is present and nitrogen and phosphorus alone are furnished in equal proportions. As a matter of fact, if potash is added to APSN to make up its content to the same proportion as nitrogen and phosphorus, the resultant product would be suphala. No changes in equipment assembly are needed. There are crops and areas where potash application is recommended and others where none is needed. Presentation of these two grades, therefore, is in conformity with the principle that a costly and imported input like potash need not be wasted where it is not needed.

In a dynamic Industrial situation, several schemes for improvement and growth are under various stages of consideration and implementation. Till a scheme actually takes shape in the field, it should be subject to change for better and more optimum solutions as the future unfolds. This is what has happened in the case of the modifications to the Urea plant.

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981]

CHAPTER IV

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

Recommendation Serial No. 23 (Paragraph No. 4.42)

The production performance of the Company is not quite satisfactory. The rated capacity of the old Ammonia Plant was reduced from 1.16 lakh tonnes per annum to 1.06 lakh tonnes per annum in March, 1969. Even this reduced capacity has not been achieved in any year so far, despite the fact that the Supplementary Gasification Scheme completed in February, 1974 was expected to raise the capacity to 1.19 lakh tonnes annually. The Committee recall here the assurance held out by the then management in 1969 (*vide* para 3.14) of 26th Report of Committee on Public Undertakings (Fourth Lok Sabha) that the Plant was reasonably well on the road to rehabilitation. Unfortunately this assurance has not been kept up. Slippage in production has been attributed to low equipment performance, break downs, longer time taken for maintenance and power problems. The shortfall affected the production of urea until terminal facilities for handling imported Ammonia were ready in 1973-74. During the period 1973-74 to 1979-80, Ammonia was imported at a cost of Rs. 14.29 crores. Although it was expected that after debottlenecking the capacity of the NPK plant will increase from 2.10 lakh tonnes to 3.30 lakh tonnes per annum, the best achievement so far has been 2.70 lakh tonnes in 1978-79. Similarly the expected increase in capacity for Sulphuric Acid production also did not materialise. This caused procurement of the acid from outside to the extent of Rs. 61.60 lakhs during 1976—80. Thus the implementation of Trombay I and II and the supplemental schemes have not as yet yielded the expected results. The position calls for a critical study to improve the working results.

Reply of the Government

The production performance and the working results of the unit/company have been good in recent years. The capacity utilisation of most of the plants is between 80 and 100 per cent. The company has made a profit every year since 1976-77. The working results of the plants during 1980-81 are given in the Table reproduced below:

PRODUCTION FROM 1978-79 TO 1980-81 AGAINST RATED CAPACITY

S.No	Plant	Annual Rated Capacity in Lakh tonnes	(Actual Production in lakhs Tonnes).		
			1978-79	1979-80	1980-81
1.	Ammonia Plant .	1·16	1·00* (86·20%)	1·04 (89·66%)	0 99 (85·34%)
2.	Urea Plant	0 99	1.03 (104 04%)	1·07 (108·08%)	1·03 (104 04%)
3.	N.P.K. Plant Complex Fertilizers .	3 30	2·66* (80.61 %)	2·56* (77·58 %)	2·63 (79·70%)
4.	Nitric Acid .	1.056	(x) 0·62 (56.71%)	(x)0 41 (38 83 %)	(x) 0 45 (42 61 %)
5	Sulphuric Acid Plant	0·99	0 84 (84·85%)	0·86 (86 87%)	0 81 (81 92%)
6.	Methanol Plant .	0 375	0·34 (90 67%)	0 40 (106 67%)	0 37 (98·67%)
7.	Phosphoric Acid	0.30	0·20 (66·67%)	0 21 (70 00 %)	0 24 (81·63%)*
8.	A.B.C.	0 04	0 03 (75%)	0·04 (100 %)	0 05 (125 %)
9.	Sodium Nitrate / Nitrate	0 04	0 02 (50%)	0 03 (75 %)	0 04 (100 %)
10.	C.N. Acid	0·20	0·18 (90 %)	0·18 (90 %)	0·19 (95 %)
11.	Methylamines — .	0·04	(xx) 0.009 (22·5 %)	((xx) 0·10 (25 %)	(xx) 0·01 (25 %)

NOTE: 1 Figures in bracket indicates percentage of actual production to rated capacity.

2. (x) The Nitric Acid Plant is partly operated as the main recruitment is met from the more Efficient and less polluting Plant. In the Earlier years old Plant had produced between 80 to 100% capacity.

3. (xx) The Plant is run Intermittantly to suit demand.

	1978-79	1979-80	1980-81
Profit@ (net) (Rs. crores)	8·14	11·04	18·53

[Deptt. of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981]

Comments of the Committee

(Please *see* Paragraph 5 of Chapter I of the Report)

*These figures are as given by Audit at the time of factual verification on the basis of the Annual Reports of the company.

@At the time of factual verificatiin, the Audit pointed out that the profit is after taking into account prior period adjustments.

CHAPTER V

RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES OF GOVERNMENT ARE STILL AWAITED

Recommendation Serial No. 4 (Paragraph No. 1.37)

Incidentally, although in terms of the arbitration award the plant suppliers of the nitro-phosphate plant were to pay Rs. 143 lakhs, the award had been contested in a US court and the chances of recovery are not rated high. A sum of Rs. 9.56 lakhs has already been spent on enforcement proceedings. The Committee would await the outcome. The Committee recommend that in future contracts with foreign parties also should provide for arbitration only under Indian Arbitration Law.

Reply of the Government

In negotiations between Indian parties and foreign parties it has been noticed that while the Indian companies prefer the contract to be subject to Indian Law, the foreign party prefers the law of his own land. While in some cases it would be possible to make the foreign party agree to Indian laws, some times, mainly because of lack of familiarity with the Indian laws, the foreign parties do not agree to subject the contract to Indian laws. As a compromise, they tend to agree to the laws of the UK and arbitration by the International Chamber of Commerce. Nevertheless, all the Public Sector Fertilizer companies have been advised (text of the letter is reproduced below) to endeavour to subject such contracts to Indian Arbitration Laws.

Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) letter No. 102/17/81-FDA-II dated 26th October, 1981 from Shri V. V. Ramasubba Rao, Director to the Chairman and Managing Directors of Fertilizer Corporation of India Ltd./Rashtriya Chemicals and Fertilizers Ltd./Fertilizers and Chemicals Travancore Ltd/Fertilizers (Planning and Development) India Ltd./Madras Fertilizers Ltd./National Fertilizers Ltd./Pyrites, Phosphates and Chemicals Ltd. regarding 21st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.

The Committee on Public Undertakings (1980-81) in their 21st Report on Rashtriya Chemicals and Fertilizers, have, while dealing with a contract entered into by RCF with a foreign party, observed thus:—

> "Incidentally although in terms of the arbitration award the plant suppliers of the nitro-phosphate plant were to pay Rs. 143 lakhs, the award has been contested in a US court and the chances of recovery are not rated high. A sum of Rs. 9.56 lakhs has already been spent on enforcement proceedings. The Committee would await the outcome. The Committee recommend that in future contracts with foreign parties also should provide for arbitration only under Indian Arbitration Law."

2. The above recommendation of the Committee is being brought to your notice with a request that while entering into contracts with foreign contractors you should make all efforts to incorporate a suitable provision in the contracts that where there is a dispute which is to be settled through arbitration, it shall be under the Indian Arbitration Laws.

[Department of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA. II dated 26th October, 1981]

Further information called for by the Committee

What has been the outcome of the USA Court proceedings on the enforcement of the award of International Chamber of Commerce, Paris in respect of Nitro Phosphate Plant?

(L.S.S. O.M. No. 62/2/1-PV/81 dated 10-2-1982)

Further Reply of the Government

The matter is still pending in the U.S.A. Court.

[Department of Chemicals and Fertilizers O.M. No. 102(17)/81-Fert. D(AII) dated 15-2-82]

Recommendation Serial No. 14 (Paragraph No. 2.15)

The Ammonium Nitrophosphate plant was not expected to achieve the rated capacity beyond 66 per cent because of design deficiencies in certain areas. The Committee have been informed that a Rs. 280 lakhs rehabilitation scheme has already been drawn up by the Corporation in consultation with the contractor. The Committee, however, note that the contractor will bear Rs. 126 lakhs (in foreign exchange) as against fees aggregating Rs. 160 lakhs payable to him and the liability limit of Rs. 38.22 lakhs under the contract. That the contractor could accept liability far in excess of the limit laid down in the contract tells its own story. The Committee desire that the Ministry of Law should be consulted in the matter and if their examination shows that there is any lacuna in the contract such lacuna should be avoided in future. Further, the Committee would stress that the guidelines issued by Government in April, 1977 in regard to contractual liability for defective designs and workmanship should be strictly adhered to.

Reply of the Government

A copy of the guidelines issued by the Bureau of Public Enterprises on 10th April, 1967 regarding contractual liability for defective design and workmanship has been circulated to all the fertilizer undertakings under the control of Department of Chemicals and Fertilizers for strict compliance. The circular is reproduced below. The other part of the recommendation is being examined in consultation with Ministry of Law and a further communication will be sent to the COPU.

Ministry of Petroleum, Chemicals and Fertilizers (Department of Chemicals and Fertilizers) letter No. 102/17/81-WDA-II dated 19th February, 1982 from Shri V. V. Ramasubba Rao, Director to the Chairman and Managing Directors of Fertilizer Corporation of India Ltd./Rashtriya Chemicals and Fertilizers Ltd./Fertilizers and Chemicals Travancore Ltd./Fertilizers (Planning and Development) India Ltd./Madras Fertilizers Ltd./National Fertilizers Ltd./Pyrites, Phosphates and Chemicals Ltd. regarding 21st Report of the Committee on M/s. Rashtriya Chemicals and Fertilizers Ltd.

The Committee on Public Undertakings (1980-81) in their 21st Report on Rashtriya Chemicals and Fertilizers Ltd. have stressed that suitable provisions should be made in the contracts with consultants for liability for defective design, bad wormanship etc. The Committee pointed out that the guidelines issued by the Bureau of Public Enterprises on 10th April, 1967 providing therein that Government should make suitable provisions in future agreements with the consultants so as to fix their liability for defective design and bad workmanship, should be strictly adhered to.

2. The above recommendation of the Committee is being brought to your notice with a request that you should strictly adhere to the guidelines issued by the Bureau of Public Enterprises on 10th April, 1967 (reproduced below) to incorporate in future agreements with consultants contractual liability for defective design and bad workmanship of plant and machinery.

Action taken by the Govt. on the Recommendations contained in the 11th Report of the Committee on Public Undertakings on Rourkela Steel Plant

At Sl. No. 23 in their 11th Report on the Rourkela Steel Plant the Committee on Public Undertakings observed as under:—

> "The Committee are unable to appreciate as to how the consultants have accepted defective construction of refractory lining of the blast furnace and permitted installation of machines with defective designs in the slabbing and Cold Rolling Mills. It is unfortunate that no responsibility could be fixed on the consultants for these defects although they were responsible for the proper commissioning of the plant. In view of this, the Committee suggest that Government should make suitable provisions in future agreements with the Consultants so as to fix their liability for defective designs and bad workmanship."

2. The above recommendation has been considered and the undersigned is directed to request that the Ministry of Industrial Development and Company Affairs etc. may kindly issue instructions to the Public Enterprises under their administrative control in regard to making suitable provisions in future agreements with consultants about their liability for defective design and bad workmanship of plant and machinery. [BPE No. 13(29)/66-FI dated 10th April, 1967.]

[Department of Chemicals and Fertilizers O.M. No. 102(17)/81-FDA, II dated 19th February, 1982].

NEW DELHI;
March 11, 1982.
Phalguna 20, 1903 (*Saka*).

BANSI LAL
Chairman,
Committee on Public Undertakings.

APPENDIX

(*Vide* Para 3 of Introduction)

Analysis of action taken by Government on the recommendations contained in the Twenty-First Report of the Committee on Public Undertakings (Seventh Lok Sabha)

I.	Total number of recommendations made . .	25
II.	Recommendations that have been accepted by Government (*Vide* recommendations at S. Nos. 1—3, 5—9, 11—13, 15—22, 24 & 25)	21
	Percentage to total	84%
III.	Recommendations which the Committee do not desire to pursue in view of Government's reply (*Vide* recommendation at S. No. 10) .	1
	Percentage to total	4%
IV.	Recommendations in respect of which replies of Government have not been accepted by the Committee (*Vide* recommendation at S. No. 23).	1
	Percentage to total	4%
V.	Recommendations in respect of which final replies of Government are still awaited (*Vide* recommendations at S. Nos. 4 & 14) . .	2
	Percentage to total	8%

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