

**COMMITTEE ON PUBLIC
UNDERTAKINGS
(1981-82)**

SEVENTH LOK SABHA

FIFTIETH REPORT

ON

ENGINEERING PROJECTS (INDIA) LTD.

(Ministry of Industry, Department of Heavy Industry)



*Presented to Lok Sabha and
Laid in Rajya Sabha on 30 April, 1982*

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1982/Vaisakha, 1904 (Saka)

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ON PUBLIC UNDERTAKINGS (1981-82)

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COMMITTEE ON PUBLIC UNDERTAKINGS

(1981-82)

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3. Shri S. C. Gupta—*Senior Financial Committee Officer.*

*Ceased to be a Member consequent on his appointment as Deputy Minister on 15-1-1982.

**Ceased to be a Member of the Committee consequent on his retirement from Rajya Sabha on 2-4-1982.

**STUDY GROUP III ON BHARAT HEAVY ELECTRICALS LTD.,
ENGINEERING PROJECTS (I) LTD., AND CERTAIN ASPECTS
OF HINDUSTAN MACHINE TOOLS LTD., JESSOP & CO. LTD.,
INDIAN RAILWAY CONSTRUCTION CO. LTD.**

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3. Shri S. M. Krishna
4. Shri Chandradeo Prasad Verma
- *5. Shri Swami Dinesh Chandra

*Ceased to be a Member of the Committee consequent on his retirement from
Rajya Sabha on 2-4-1982. ■

INTRODUCTION

1. The Chairman, Committee on Public Undertakings having been authorised by the Committee to present the Report on their behalf, present this Fiftieth Report on Engineering Projects (India) Ltd.

2. The Committee took evidence of the representatives of Engineering Projects India Ltd. on 2, 3 and 5 November and 19, 23 and 30 December, 1981, Hindustan Steel Works Construction Ltd. on 23 March, 1982 and of the Ministry of Industry (Deptt. of Heavy Industry) on 22, 23 and 29 March, 1982. The Committee also took evidence of the representatives of EPI (Ain Bagze Housing Project, Kuwait) Associates Association on 16 December, 1981.

3. The Committee considered and adopted the Report at their sitting held on 29 April, 1982.

4. The Committee wish to express their thanks to the Ministry of Industry (Department of Heavy Industry), Engineering Projects (India) Ltd. and Hindustan Steel Works Construction Ltd. for placing before them the material and information they wanted in connection with the examination of Engineering Projects (India) Ltd. They wish to thank in particular the representatives of the Department of Heavy Industry, Engineering Projects (India) Ltd. and Hindustan Steel Works Construction Ltd. who gave evidence and placed their considered views before the Committee.

5. The Committee also wish to thank the representatives of EPI (Ain Bagze Housing Project Kuwait) Associates Association for giving evidence and placing their views before the Committee.

NEW DELHI;
April 29, 1982

BANSI LAL,
Chairman,

Vaisakha 9, 1904 (S)

Committee on Public Undertakings.

PART I

BACKGROUND ANALYSIS

I. INTRODUCTORY

Engineering Projects (India) Ltd. (EPI) was established on April, 16, 1970 as a Consortium of seven public undertakings *viz. HEC, MAMC, BHPV, HSCL, TSL, BHEL, HE(I)L and I.L. most of whom were working in the engineering field with HEC holding 51 per cent. shares. In 1977-78 it was converted into an independent Government Company through direct subscription by Government of India to its share capital. The paid up capital of the company was Rs. 88 lakhs as on 31-3-81. An additional amount of Rs. 4.12 crores has, however, been received from Government for equity investment in EPI.

2. The company was established with the main objective of operating as a prime contracting company for securing industrial projects on turn key basis both within and outside the country in different industrial sectors of its specialisation. Its functions were marketing and construction of turn key projects utilising the industrial products manufactured by the members of the consortium and other public and private sector industries. In the home market it has taken up mainly setting up of industrial plants. But in overseas market it is basically working in the construction industry and has taken up works in Iraq, Kuwait, Saudi Arabia and Abu Dhabi etc. As in September, 1981, the company had on hand projects of the value of Rs. 824 crores. 68 per cent of the total value of orders were for overseas projects.

3. The company had earned a Cumulative profit of Rs. 86.97 lakhs upto the end of 1977-78. It, however, incurred heavy losses during 1978-81 as shown below:—

		(Rs. in lakhs)
1978-79	. . . Loss	253.01
1979-80	. . . "	708.34
1980-81	. . . "	1144.24
	TOTAL :	<hr/> 2105.59

*H.E.C.—Heavy Engineering Corporation Ltd; M.A.M.C.—Mining and Allied Machinery Corpn. Ltd.; B.H.P.V.—Bharat Heavy Plates and Vessels Ltd.; H.S.C.L.—Hindustan Steel Works Construction Ltd.; T.S.L.—Triveni Structurals Ltd.; B.H.E.L.—Bharat Heavy Electricals Ltd.; H.E.(I)L—Heavy Electricals (India) Ltd; I.L.—Instrumentation Ltd.

4. The Committee pointed out that these losses were after taking credit on account of foreign exchange variations. Asked about the net gain on this account during the last three years, the CMD, EPI stated in evidence that it was Rs. 10.62 crores. The actual working loss during these years was thus Rs. 31.67 crores.

5. As regards the reasons for these losses, the CMD stated that the loss was mainly on two foreign projects viz. Ain Baghze Housing Project (ABHP), Kuwait and Council of Ministers Building Project, Baghdad.

6. The Committee enquired the reasons for EPI going in for civil construction works abroad, when the object of its setting up was to execute industrial projects and there were other public undertakings like NPCC, NBCC to execute civil construction work. The CMD stated in evidence that in 1973 there was a big boom in the Middle East, and the oil rich countries were offering very good opportunities for all constructing companies. In 1976 an opportunity came when Kuwait Government offered a big housing project valued at Rs. 230 crores. It was a job of housing which Indian construction companies were able to handle. EPI felt at that time that they could mobilise the resources available within the country and undertake a job of that nature. So they tried for that and got the job. As regards experience of EPI in the field, the CMD stated "we did not have much experience of handling such a big housing project but we felt that a number of Indian companies were going to work for us as associates or sub-contractors. So we would be able to undertake that job.

7. The Committee enquired whether the approval of Government was obtained for going in for civil construction works abroad. The Secretary of the Ministry stated in evidence:

"I would say that it was done in June, 1976. It was for the first time that they came to the Government asking for the support guarantee etc. for the work which they were taking up abroad in the civil construction field."

8. Asked whether this permission was given by Government by implication only or was it specifically given, the Secretary stated:

"You would probably be correct in saying that it was by implication. After all within the Government these points were raised. Whether they could go into for that or not, I cannot say. But these were processed."

9. Asked on what basis did the Government come to the conclusion that EPI could undertake this type of work the witness stated:

"To my mind it was purely a management challenge.... At that time it did not have expertise, but the decision had to be taken on the basis—would it be possible to do or not. And I entirely agree that it was taken on the basis that it should be possible."

10. EPI was directed by the Ministry in November, 1977 to go for such project contracts which had substantial supply of component| equipment and less of civil works since margins were greater in the case of equipment supply. Asked about the need for giving such a directive, the Secretary of the Ministry stated in evidence:

"It was in the review meeting that the then Secretary, Heavy Industries, observed that it should be EPI's strategy that contracts obtained by them works such as had substantial content of equipment supply. This equipment should be such as were manufactured by the public undertakings under the fold of the Department of Heavy Industry. He felt that it was essential to evolve procedures and policies under which conflicts between EPI and its constituent units and public undertakings were minimised. He was trying to advise EPI that please try to take projects in which you can sell products of constituents also."

11. As regards the action taken by EPI in this regard, it had been stated in a written reply that this had been kept in view while quoting for Indian and foreign projects. From a statement furnished by the Ministry it was however, noticed that the foreign projects taken up for execution even after November, 1977 were predominantly civil construction works. The percentage of civil works in such projects ranged from 58 to 81 per cent as against 19 to 42 per cent of equipments including erection and commissioning.

12. The Committee enquired whether there had been any review of the strategy to be adopted in undertaking contracts. The CMD, stated in evidence that the criteria laid down in April, 1979 were as follows:—

"(1) EPI shall obtain adequate return on capital and work whole heartedly for inflow of large volumes of foreign exchanges into the country through the project contracts

that EPI gets overseas, and also to create still greater opportunities of employment, both at its projects in India and overseas.

- (ii) EPI, functioning as it is as a prime contracting company, shall help in stabilising and reducing the overall cost of industrial projects in the country."

13. He added: "In 1980 we again had another market strategy in which we said that the emphasis should slowly shift to more and more industrial projects or mechanical projects rather than civil engineering projects.

14. EPI was also asked by the Ministry in March, 1980 to strike a balance between the quantum of domestic and foreign projects. The Committee enquired from the Ministry the reasons for giving such a directive to EPI. The Secretary of the Ministry stated in evidence that this was an observation of the Secretary in the performance Review Meeting held on 4-3-80. In the minutes of the meeting it was said:

"EPI should step up its emphasis on the domestic projects as it was one of the original objectives of the company to develop profitability for setting up industrial projects in the home market. This activity would also provide required training."

15. As regards the need for such a direction he stated:

"The logic is not mentioned in the paper but I feel that since things had gone wrong, in their handling of the foreign projects, a doubt had arisen.... Since the managerial lapse had taken place, they did not rise equal to the challenge. So, the Secretary said: "Let us concentrate for the time being on the home market."

16. In the course of examination of the Ministry the Committee pointed out that according to the guidelines laid down by BPE in 1968 a rate of return (dividend) of 10 to 15 per cent of paid up capital in trading enterprises and 6 to 15 per cent in manufacturing enterprises was expected. Asked whether there were any guidelines in regard to profit margin for enterprises engaged in construction work, the Secretary of the Ministry stated that there were no guidelines laid down so far. They would take up this with the BPE for having uniform guidelines for various construction organisations.

II. PROJECT TENDERING

A. General

The Committee enquired the procedure followed for preparation of tenders and submission of tenders. The CMD stated:

"A team is nominated from within the company consisting of various officers dealing with that type of work and they in turn work together and prepare the tender and the final document....The instructions are that they should put together all quotations as they get from the various associates and other organisations. They should get information about the cost of materials. They should also, at the same time, determine what will be the plant and equipment required. If they have got all the informations, then, they put them together and form the base cost....On top of it we are working out a margin including read office expenses etc. and then we add that to the base price to get tender price."

2. The Committee pointed out that from the statement furnished to them it was noticed that the profit margin (including Head Office overheads) included in the project estimates varied from under 4 per cent to 12 per cent. Asked about the reasons for accepting some of the works at very low margin, the CMD stated that "usually our margin is 5 per cent. In one or two odd cases, it might have gone below 5 per cent."

3. Asked as to who had fixed the profit margin, the CMD stated that "originally when plans were prepared for housing we went to the Board. At that time the margin was 5 per cent. It was cleared and approved by the Board. Subsequently as we gained our experience in the international market we also found that if the company like ours which was the prime contracting company doing a huge business could give sub-contract we could not put in a very high margin. It will be non-competitive and we may even lose the work. So it is based on our own practical experience in operation."

4. The Committee enquired whether the approval of the Board was obtained before submission of tenders. The CMD stated in evidence that the Board had delegated full powers to the CMD to accept tenders.

5. The Committee enquired from the Ministry whether it was not desirable for the CMD to have prior approval of the Board to undertake contracts above certain value. The Secretary of the Ministry stated in evidence:

"In the system of delegation it should be there; he must involve his Board; if he goes outside and negotiations are there he has to involve the Board within certain parameters laid down by Board."

6. In a memorandum submitted to the Committee, EPI (Al-Bagze Housing Project, Kuwait) Associates Association stated:

"EPI is a Body which according to experienced and informed views was not in a position to undertake a 230 crores project at the time that it did. Its annual turnover for the year 1975-76 was only Rs. 23 crores. It seems that in their eagerness to get this particular job, the management of EPI lost sight of the essential and basic prudent business principles. It entered into a totally one sided contract at not only very low rates but on rates which could not have possibly resulted in a profit. We need only quote a report of a high powered committee appointed by the Government of India which found that "The contract as concluded has been the main source of problems and differences between the EPI and the NHA. It does not contain clauses to safeguard the viewpoints of the contractor and is heavily weighted in favour of the client."

7. The Committee enquired whether the contract was examined by the competent legal authority before it was signed. The representative of EPI stated in evidence that the contract for ABHP was referred to the legal authority—an Indian firm and it was cleared by them. When pointed out that the contract was stated to have been weighted in favour of the client, the CMD stated, "there is very little choice given to the contractor to make alterations etc. from the conditions they have put in the contract."

8. The Committee enquired whether there were any guidelines laid down by Government for construction companies in regard to submission of tenders and acceptance of contracts and whether it

was not desirable to have scrutiny of proposals involving large expenditure at the Government level. The Secretary of the Ministry stated in evidence:

"There are no guidelines. I do not think that there is any intention on the part of the Government to resort to this practice of scrutiny of proposals prepared by contractors. Otherwise, there was no need for Government to adopt this company pattern. They could have done it as a departmental work. But since the departure from the departmental practice to the company practice has been resorted to all the powers are vested in the Board of Directors. But with regard to the procedures, for that part of the question, certainly I do agree that every company within its own parameters has to have detailed procedures, detailed powers for delegation and all that from their respective Board of Directors. Such detailed procedure must be there. I agree."

9. Asked whether it was done in the case of EPI, the witness stated, "it was done, but it was not done adequately the procedures or the policies were not adequately developed."

10. The Committee enquired whether there were any guidelines emanating from the scrutiny of bids by the IDBI in respect of foreign contracts. The CMD stated:

"There are no specific guidelines laid down by the IDBI. But RBI has got detailed guidelines which are being followed by us. Each proposal is examined by IDBI on its own merit. For example, in the proposal which we put to them, we represented that we want a negotiating margin of 10 per cent. They said that it should be 5 per cent. Sometimes they suggest that this particular associate should be dropped because he is already over-burdened. In one or two cases, they have told us not to put any tender at all... They have generally mentioned that our performance so far has not been good and that they would like to scrutinise the projects in details. There was a project earlier in Malaysia about which they advised us not to tender for."

11. The Committee enquired whether the two projects viz. Ardiya Housing Project and Council of Ministers Building Project on which EPI had suffered heavy losses were cleared by IDBI. The

CMD stated in evidence that at the time of Ardiya Housing Project overseas contracts were not being scrutinised by IDBI. The Project was cleared by the administrative Ministry as well as Finance Ministry. A lot of discussion took place. Ultimately the proposal as put up by the company was accepted and the company was allowed to go in for tender.

12. As regards Council of Ministers Building Project, the CMD stated:

"The first proposal was submitted to IDBI on 19th January, 79 for Rs. 53.24 crores with 10 per cent margin for price negotiation. This was approved by IDBI. The tender when submitted was for a value of Rs. 42.88 crores. This reduction was made because of the quotations for civil works which we received from one of the associates who worked with us. This was not intimated to IDBI. After opening of the tender by the client, it was found that our quotations were higher by Rs. 5 crores as compared to the next lower quotation from Mitsubishi of Japan. In order to secure the tender we further offered a reduction of Rs. 4.73 crores bringing the value down to Rs. 38.15 crores. This intimation was sent to IDBI vide our letter of 17th February, 1979 that we have reduced the price to Rs. 38.15 crores. Noting this reduction, IDBI asked us to come up with a revised proposal. Meanwhile, during negotiations with the client, further reductions were offered and the price was reduced to Rs. 32.85 crores. This is the final price, except that due to exchange variation, this has now become Rs. 34.14 crores in rupees. The final value remained the same 11.95 million Iraqi dinars. After we finally reduced the price to Rs. 32.85 crores and received the letter of intent from the client, we went to the IDBI with the revised proposal. They gave their approval in June, 1979."

13. Asked whether it was proper on the part of EPI to finally settle everything with the client without consulting and without the permission of IDBI, the CMD stated:

"I think what you say is correct. We had a negotiation margin of 10 per cent and we should have kept within that. We have reduced it further and gone to them saying this is the final price."

14. Asked about the reasons for reducing the quotations to Rs. 32.85 crores, the witness stated "The client told us that unless we reduced the price the tender would not be given to us. So further reductions were offered."

15. Asked as to why EPI was so anxious to get this work, the CMD stated:

"This project was considered to be a very prestigious one. This was the Council of Ministers Building and it was known at that time that the nonaligned summit of 1982 will be held in this building. Everybody wanted that the name of EPI having built this should be there, so that we can get a good name. EPI and our Embassy in Iraq wanted that we must try and get this contract."

16. The Committee also enquired from the Ministry whether it was proper on the part of EPI to reduce the value of the tender without approval of IDBI. The Secretary of the Ministry stated:

"If possible any organisation must have the approval of IDBI before-hand; but if in some situations, while negotiating the contract, there is not available and they have got to clinch the issue, in that situation, immediately after that they must go to IDBI, but in this case it was not done."

17. In pursuance of review of EPI's performance in June, 1979, the Ministry asked EPI that proper analysis should be done before preparation of cost estimates for construction projects so that EPI should not incur financial loss after completing the project. As regards the action taken it was stated that this was presently being done. The CFD also stated in evidence:

"We are having much more careful tendering at the time of submission of tender to make sure that no projects are taken up which will ultimately lead to losses, as in the case of the building for the Council of Ministers, which was taken up at a very low price and which resulted in a loss..... Much more care has to be exercised in the preparation, negotiation and acceptance of the tender and we should not take up jobs which are unremunerative."

B. Sponsors

18. It was observed from the Annual Accounts that the company had spent Rs. 3.58 crores on 'sponsorship fee and service charges'

during 1976—81 for its various projects. The Committee enquired the reasons for having sponsors. The CMD stated:

"In most of the countries in the Middle-East there is a law under which we must have a local sponsor before we go in for a contract there. Otherwise we cannot operate in that country. For example, we cannot operate either in Dubai or in Saudi Arabia with a local sponsor. Before we tender we in our tender document, we have to indicate the sponsor. Before we tender we generally discuss with this or that gentleman. He tells us that this will be his fees. It varies from 2.5 per cent to 5 per cent. In some countries it is as much as 20 per cent of the tender value. So far, in our operation, it has been between 2.5 per cent and 5 per cent. That is what the Reserve Bank also has approved and sanctioned. We can go upto that. They have recently revised that and it is now 5.5 per cent of the tender cost or total value of the budget upto which sponsor fee can be given in the Middle-East country."

19. Asked as to how was the selection of sponsors made, the CMD stated:

"We take the help from our Embassy and we take the help of their embassy here in India. We check up with our market intelligence to find out as to who is the best-man....No qualification as such is required for the sponsor....usually they are very influential people whom we take as our sponsors."

20. Asked about the functions, duties or liabilities of the sponsors, the CMD stated:

"First of all, the duties of sponsor are to get us the informations and also to get us pre-qualified....We cannot tender unless he gets us the form, unless he gets up prequalified. After that he helps in negotiations; he also helps us in fixing the meeting etc. He helps to get the work done or allotted....After it is allotted he performs the duty to get the bill passed....They help us in getting the local information or materials. He gets us the information as to from where we can buy or purchase by putting us through the local departments. These are the functions of a sponsor-pre-tender, during tender and post-tender period."

21. Asked about the terms of payment to the sponsors, the CMD stated:

"That is also a part of the agreement. Usually their system is that they would like to get 50 per cent of the total fees immediately after the contract has been awarded to you and balance of fifty per cent pro-rata on getting money from your clients. We give them pro-rata commission. 50 per cent is paid after the contract is given to us."

22. Asked whether they could withhold payment of remaining 50 per cent of fees, if the sponsors did not perform his work or duties properly, the CMD stated 'it is not easily possible.'

23. The Committee enquired about the number of sponsors of EPI in foreign projects and the total amount paid to them. EPI stated in a note that as on 31-3-81 they had 5 sponsors in respect of overseas projects and an amount of Rs. 3.45 crores had been paid to them. An amount of Rs. 27.21 lakhs remained to be paid.

24. It was also noticed that the tender conditions and the contract signed relating to a project provided that the contractor shall not engage any agent for this project. Clause 2 of the agreement reads as follows.

"The contractor undertakes to refrain from giving benefit to any person, natural or legal, Kuwait or non-Kuwait, in Kuwait or abroad, whether in the form of commission, doles, expenses, disbursements, bonuses, gifts, or promises for any reason whatsoever, whether it is remuneration, bonus or compensation. The contractor also declares that, with respect to the transaction covering the original contract, it has neither committed itself nor promises to any person at any place of any of the aforesaid either before or after the signature of the original contract."

25. In spite of it an amount of Rs. 86.04 lakhs was paid to an agent for this project from EPT's account although he did not render any services for the project.

26. For Sief Palace Area Building Project M/s. Fujita Corporation were the main contractors and they had employed an agent for this project for whom a provision of 1 per cent was made in contract estimates. EPI was a sub-contractor to M/s. Fujita Corporation and was implementing the civil portion of the contract. For this project also an amount of Rs. 34.72 lakhs was paid from EPT's account

as sponsorship fee inspite of EPI being a sub-contractor and the agent having not rendered any service for the project.

27. Asked whether the approval of the Board was obtained for sponsorship agreements, it was stated in a note that 'the Committee of Directors were kept informed of the sponsorship arrangements and in certain cases post facto approval was obtained.'

28. The Committee enquired whether there were any guideline issued by the Ministry in regard to the system of selection of sponsors and the extent of payment to be made to them. The Secretary of the Ministry stated that there were no guideline except one sentence guideline about expenditure to be restricted to 5 per cent of the Contract value. This was of course very general.

29. Asked whether there were any guideline given by the Board of Directors to the Chairman or the person on the spot, he stated 'I do not think so'. The Addl. Secretary of the Ministry stated in this connection:

"We have told the Chairman very clearly in the Board that there have to be a greater watch with regard to the appointment of sponsors. Later on, when it was found necessary to appoint another sponsor, they did come to the Board for ex post facto approval. You will find that the documentation as well as the type of services to be performed by him have been indicated properly. Not only that it has already been initiated in the form of contracting manual. But informally in all the contracts whether home contracts or foreign contracts, Chairman consulting the Board."

30. In reply to a question about the assistance rendered by the sponsors, the CMD stated "we did not get much help from them." The representative of the Ministry also stated in evidence that detailed study of the operation of quarry of ABHP indicated that the sponsor was not in a position to bail them out of the difficulty. Sponsorship agreement was brought for ex-post facto sanction. Unless this is brought in advance it not possible to give proper guidance.

31. The Committee pointed out that even in respect of home projects, EPI has paid sponsorship fee of Rs. 6.20 lakhs during 1976-81. Asked whether it was necessary for the EPI to have sponsors for home project, the Secretary stated: Normally not. There are instance of course where there is a case being initiated over a long period and

one does not have an office in that part of the country—regional or branch office. So one may appoint an agent. That type of thing could be done. But in addition to that it is unfortunate it was bad in the case of state organisations. He however stated that now they were not giving it. In fact in a recent case they got suggestions that they should appoint a party as sponsors but they decided not to appoint him.

III. CONSTRUCTION ARRANGEMENTS

A. Sub-contractors/associates

1. The Committee enquired the system followed by EPI in awarding the work to sub-contractors/associates. The CMD stated in evidence that generally the work taken up for execution was divided into various disciplines like civil works, mechanical works, electrical works, machinery and equipment supplies etc. The associates for each of these were selected. Generally there was a pre-tender tie up with a particular party for each work.

2. As regards the basis of selection of the associates, the CM. stated:

"We maintain a register of contractors. First we ask them to fill up a questionnaire stating their expertise, what type of work they have done, the financial value of the work they have done, how much is the turnover etc. Then we prepare a list. When we need a contractor or sub-contractor, we pick up 5 or 6 people from this list who qualify to do that job. We see how they are loaded at present, are they free etc. and then ask them for their willingness. Not all of them may be willing. 2 to 3 may be willing. We decide who among them is the best and select him. It is a process of elimination after proper screening. The contract section put up the recommendations to the Director and to the CMD. I approve it and then he is told that he would get the work."

3. Asked whether there was any system of calling for tenders from various parties, the witness stated that they selected a suitable party which could give a reasonable working cost which tallied with their own working cost. It was found to be a better arrangement than going in for invitation of tenders from 4 or 5 parties and then selecting the lowest tender. The total time available was hardly 5-6 weeks for international tenders.

4. Asked whether this system was also followed in their biggest contract in Kuwait, the CMD stated that for ABHP project there was a list of contractors who were supposed to work, but after they

got the tender, not one of them was prepared to work. It was ultimately awarded to a different set of contractors. As regards their experience, the CMD stated 'most of these contractors are very small sized contractors'.

5. In the case of Council of Ministers Building Project also the Committee were informed that when the contract value was reduced to Rs. 32.85 crores, the party with which EPI had pre tender tie up did not take up the work. They negotiated with another party but it also did not accept the lowest price which EPI offered. Ultimately two labour contractors were employed and EPI took the responsibility totally for the purchase of materials.

6. The Committee enquired about the rationale for EPI working as prime contractor and awarding work to sub-contractors instead of undertaking works largely themselves. The Secretary of the Ministry stated in evidence:

"Firstly even in other public sector companies there are instances of different types where they are working as prime contractors. Moreover in a company of this type where they were trying to get into a new area and they were able to get a large order a large organisation of their own could not have been possible."

Asked whether this matter was examined the Secretary stated 'I have nothing on paper.'

7. The Committee were, however, informed by CMD that recently they had taken a decision to do some work departmentally.

8. The Committee enquired whether the company gave preference to public undertakings in selecting sub-contractors as compared to private sector, the CMD stated:

"For civil engineering works only 3 or 4 public sector companies are operating. We have taken them. For Iraq we have taken them. I will mention: Bridge and Roof, NPCC, HSCL, etc. So far as equipment is concerned if we get instruments and equipments from Indian Public sector companies like MAMC HEC etc. we take them. We try to take all manufactured items from India. But this system has not worked very well. Some of the public sector companies have taken subcontractors to work—so dealing with them becomes more difficult.....Some of

these public sector companies are interested in doing their own work; and not interested in doing sub-contractors' work for us."

9. The Committee also enquired whether the terms settled with the sub-contractors were the same as in the main tender or there was deviation from it. The CMD stated that "one of the conditions is that all the terms and conditions will be back to back: Sometimes they object to certain clause and if they are absolutely obstinate, we may have to change it.....basically the deviations are in the terms of payment. We have certain terms of payment with the client. Sometimes our associates say that terms of payment is not suitable to them."

10. In reply to a question the CMD stated in evidence that in a large number of cases, material supply was the responsibility of EPI. They procured the material and issued them to sub-contractors. The sub-contractors having quoted for the work on lump sum basis based on the pre-determined issue rates of materials, they did not bear the loss on that account. There was also no escalation clause in the contract with the clients.

11. In the course of examination of the Ministry the Committee enquired whether the system of sub-contracting was reviewed by the Ministry at any time and any guidelines laid down. The Secretary stated that he did not find any information that this was specifically reviewed. However, EPI has drawn up a list of contractors from these persons who are registered with Export Promotion Council. The EPI were, on instructions from the Ministry, trying to evolve a total Manual on Contracting in which apart from delegation, these things would also come in.

12. In reply to a question the Secretary of the Ministry agreed that the selection of sub-contractors for ABHP was defective.

13. The Committee also enquired whether the Ministry had analysed the reasons for public undertakings generally not coming forward to work as sub-contractors for EPI. The Secretary of the Ministry stated in evidence:

"Predominantly, most of these organisations are going on their own. One of the bad things has been that there has been a competition among them. There is nothing wrong in working even as a sub-contractor. There are problems and some people do not want to work. If I can make some money, there is nothing wrong."

B. Sub-Contract for W.R.C. Project

14. EPI took up in 1979 the contract of the value of Rs. 15.50 crores for the constructions of Water Research Centre Baghdad. It sub-contracted the civil works to M/s Hindustan Steel Works Construction Ltd. (HSCL) a public undertaking. HSCL awarded the work to another private Company as their associate. The contract included construction of a covered hydraulic laboratory. In the original design the roof structure of this laboratory was proposed to be of fabricated heavy duty pipe trusses. The pipe as required in the design were not available in India. Therefore as proposed by HSCL, EJI proposed to the client the use of Miro Space Frames which was agreed to by the client. Although the equipment was of German origin manufactured by a firm in West Germany, the equipment was bought through their agent in Dubai. An order was placed by M/s HSCL on the Dubai firm at a value of DM 3313141 and L.C. for the amount in their favour established on 24-8-80.

15. In this connection, the Committee called for a letter dated 21-11-81 sent by Dy. General Manager (F) of EPI at Baghdad to Director (Finance) in regard to this deal. It was pointed out therein that the purchases order dated 11-8-80 had been signed by an officer of the associates of HSCL on behalf of HCCL. Further from the remarks in office copy of the invoice No. IK/704/81 dated 8-9-81 for DMs 1045577 for part supplies from the Dubai firm, it appeared that the party had allocated 20.30 per cent of money to the associates of HSCL and 79.70 per cent in their Sales Account. This showed that the associates were taking a share in the price fixed with the suppliers to which they were not entitled.

16. Another aspect mentioned in the letter was that the price as per invoice for part supplies from the Dubai firm was 54 per cent higher than the invoice price of the German Firm. This higher price could be avoided had M/s HSCL gone to the manufacturers directly.

17. The Committee took evidence of the representatives of HSCL in this connection.

In reply to a question the Committee were informed that the officer who was the Project Manager at that time had left the service of HSCL without his resignation being accepted.

18. The Committee enquired from the representative of HSCL who was at that time looking after the Finance Section at Baghdad

as to whether before opening the letter of credit in favour of the party it was ensured that HSCL was paying the proper price. The witness said:

"Quotations were given to me in support of the original price to be paid to the party. We had taken the copy of the quotation from Syndicate Engineering because we had to open the letter of credit."

19. The Managing Director promised to furnish a detailed note covering various points after obtaining records from Baghdad Office.

20. Subsequently the Committee were informed in a note that as per their contract with HSCL it was the responsibility of the associate firm to procure all the materials. At such order for the Mero Space Frames and allied component was placed by the firm on the Dubai firm on their own letter head. However, the Iraqi client had not given any recognition to the associate firm an entity in regard to Iraqi client's contract with EPI. As a result of this it was not possible for the firm on their own to get any clearance or facility from the Govt. in regard to the said work and all such clearances had to be obtained on their behalf by EPI or HSCL. For drawing advance as per contract against LCs opened, the client had asked for copies of L.C. and supply order. Due to reasons stated above, the order placed by the firm would not have been accepted by the clients for this purpose. It was under these circumstances that an identical copy of the order as placed was made out on HSCL letter head and HSCL submitted it to EPI for submission to the Iraqi clients for claiming advance against letter of Credit. It is no doubt highly irregular that the letter was signed by the representative of the associated firm on HSCL letter head but on the other hand it would also not have been correct for any HSCL officer to sign a copy of the order which had actually been placed by the firm. This, in fact, was a copy furnished to comply with the local requirements at Iraq and had been given to EPI after checking all the details and there was no possibility of the firm being allowed to misuse HSCL's position in this matter. There was also no question of the associate being allowed to make any commitment on behalf of HSCL. The matter had to be viewed in the perspective of the special circumstance which were also in the knowledge of EPI—otherwise they would not have forwarded the letter to the client for claiming the advance.

21. As regards the difference between the bills raised by the Dubai firm and the German suppliers, it was stated that the figures appeared to be for only a part of the supply and unless the consignments

covered by the bills correspond with each other tofally, a direct comparison would be difficult. Further, the price of the Dubai firm also included the erection of the system at site.

22. In regard to the share of the associate shown in one of the invoice, it was stated that a copy of the invoice was obtained by HSCL from EPI in which some purported allocation of the bill had been given but they were not in a position to give any comments as it was not clear as to who had entered the above, purported allocation in which there were also a number of cuttings.

C. *Advances to Sub-Contractors*

23. EPI had paid large amount of advances to its Sub-contractor. As on 31-3-1981 the total amount of advances were Rs. 86.90 crores out of which Rs. 56.67 crores were unsecured advances.

24. The Committee enquired whether there was any provision in the contracts for providing these unsecured advances. The CMD stated in evidence that there was no such provision in the contracts. Asked as to the reasons for making such advances, the CMD stated:

"In all the overseas projects, a large amount of overdraft is required to execute the job because we do not get payments in time and the bills are normally paid 3 or 4 months after the work has been done. The overdraft facilities are only available to the prime contractor. The sub-contractors do not get any overdraft facilities. In the overseas market they have no other source of getting money except from the prime contractor. So, it is to meet their overdraft requirements that we give them advance which are not covered by any guarantee."

25. The Committee enquired whether EPI was not taking big risk in giving these large unsecured advances, the CMD stated:—

"As the work progresses and as their payments are realised, these overdrafts which they have drawn from us keep on being recovered. We also keep some retention money which can be offset against these advances at the end of the contract. If there are still some outstandings from them, we have a legitimate claim against them and we can ask them to pay either through this particular or from their other sources. I agree, there is a certain amount of risk."

26. As per delegation of powers to CMD advances to contractors not covered by contractual terms required the approval of the Board of Directors. The Committee enquired whether the Board had approved the payment of these advances. The CMD stated in evidence "all these advances were being put up before the Committee of Directors which had been constituted by the Board for overseas projects. In some cases it is *ex post-facto* and in some cases it is *advance sanction*."

27. It was noticed that the question of *ad-hoc* advances was first put up to the Committee of Directors at their meeting held on 19-11-78. In that meeting the Committee, observed that "the criteria for such *ad-hoc* payments had no relation to the work done or actual wage payments. After consideration, it was agreed that the Associates may be paid money to meet the deficit in their cash flow so as to cover their wage payments, hire charges for machinery deployed by them for work in Ardiya Housing Project and an amount not exceeding 15 per cent, to cover their direct over-heads in Kuwait. Such payments should, however, be made only when the Associates furnish bank guarantee or deposit the equivalent amount in rupees in India. The Associates should also be asked to produce in due time bank guarantee for the *ad-hoc* advances availed till 31-10-78. As soon as the monthly bills generate surplus cash flow, *ad-hoc* advances should be recovered in preference to the recoveries made against mobilisation advance which are secured by bank guarantees. The *ad-hoc* advance will also carry interest at market rate.

28. In spite of these directions, large unsecured advances were paid to the associates.

29. Asked whether there was any interest charged on these advances, the CMD stated that "we have told them that they would have to pay the interest and we are booking this as a liability against them." The Director, Finance, however, added that the whole thing was in dispute as they had said that they had done extra work and therefore they were not liable to pay any interest.

30. Asked about the reasons for making advances without clear commitment from the associates in regard to payment of interest charges, the CMD stated that there seemed to be a fear in the mind that they would run away. The client would hold EPI responsible for any delay. Unless they were able to keep their associates working diligently along with them they could not avoid this.

31. In reply to a question the CMD stated that they were caught in a situation and they had to do their best to wriggle out of that and then set procedure for the future so that they did not run into that situation again. In certain cases from 1980 onwards they had not paid any advance.

32. To an observation of the Committee that intentions behind the conditions laid down by the Committee of Directors were not being complied with in practice, the Director (Finance) stated: "You have a point." He added 'we will contest that interest charges are due to us.'

33. From the minutes of the meeting of the Committee of Directors held on 10-2-81, it was noticed that the Committee observed as follows:—

"The Committee desired that the pattern of granting *ad-hoc* advances to the Associates in the Kuwaiti Projects should not be repeated in Iraq, and that it must be ensured that the advances are recovered from the running bills of the Associates.

The question of Associates' getting overdraft facilities separately sanctioned by the IDBI Working Group should be examined and if necessary, Government should be approached to request IDBI to permit the Indian Associates of EPI to obtain separate overdraft facilities."

34. In the course of examination of the Ministry the Committee enquired whether the Ministry reviewed the system of large *ad-hoc* advances to the sub-contractors. The Secretary of the Ministry stated:—

"I understand that this subject was discussed more informally a number of times and as a result of that two things happened : 1. Contract conditions were modified and the matter was taken up with IDBI that associates should be given their own borrowing limit: 2. IDBI has agreed to lend to associates."

35. When pointed out that there was not even clear commitment obtained from the sub-contractors in regard to payment of interest, the Secretary stated "I agree, Tie-up was defectively done....In the new contracts it is being taken care of."

D. Labour mobilisation

36. A Large number of workers (about 17000) were sent abroad by the Associates of EPI. EPI had also recruited on the rolls 1400 workers for overseas projects (upto 30-9-81). There were complaints about malpractices like demanding of money by the labour agents for sending the workers abroad. There were delays in execution of contracts because of low productivity of workers. 92382 mandays were also stated to have been lost on account of labour trouble by the workers of associates in Kuwait projects.

37. The Committee enquired about the procedure for sending of workers abroad by the associates of EPI. They were informed that the recruitment of labour was done by the Associates themselves. All the workers who went abroad had, however, to go through the screening procedures of EPI, although the first lot of workers numbering about 6000 had not gone through the screening test. As regards the reasons for introducing this screening, the CMD stated that there were lot of problems about fitness and performance of these people who had gone earlier. Therefore, this screening was introduced.

38. Asked whether in the screening system there was any trade test, the CMD stated "We ask for certificates from previous employers, ITI etc." He however, agreed that even the present system was not a foolproof arrangement.

39. To a question whether it was true that in the screening process, EPI officers had to be paid to get through, the CMD stated: "I cannot comment on that."

40. The Committee enquired whether any complaint had been received from any worker regarding charging of money from them for their selection for EPI's projects abroad. EPI explained that in order to meet the urgent requirements of Overseas sites for departmental labour, EPI's Hqrs. office (Mobilisation Bureau) had inserted advertisement in the classified column of leading News papers on 31st January, 1981. For administrative reasons the applicants were advised to reply through a box number. Applications against the said advertisement were received in the month of February, and early March, 1981 and after screening the applications, the interviews were held from 19th March, 1981 to 4th April, 1981.

41. One worker Shri Mana Ram was interviewed by EPI on 3rd April, 1981 in the normal course and was selected. His various

other formalities were also processed. On 1st May, 1981 he personally approached the in-charge of the Mobilisation Bureau and requested him that as he was a poor person, he was not in a position to pay Rs. 9,000/- being demanded by EPI's labour agent and begged that he be sent abroad, since he was found fit by EPI, without having to pay money to the Agent.

42. Shri Mana Ram, on questioning, mentioned in his statement that three more persons, who had already gone to Iraq after due selection by EPI, paid the Agent M/s. R. Singh Pratap Singh Rs. 9000/- each. On the same day, Shri Mana Ram made the statement in writing: Shri Mana Ram's statement and the letters which the Labour Agent had written to the applicants were shown immediately to General Manager (S&A), EPI on 1st May, 1981, and CMD, EPI was also apprised of the events on the same day. CMD directed GM(S&A) to immediately call on the Deputy Commissioner of Police (South) and lodge a complaint, which was done on the same day. The police raided the premises of the Labour Agent on 2nd May, 1981 and got hold of some passports cash and also two workers who were already selected by EPI but were found on the Agent's premises. Letters which the Agent had been writing to the workers in Rajasthan were also intercepted by the police.

43. At the instance of Police, General Manager (S&A) sent a confidential telex message on 14th May, 1981 to Group General Manager at Baghdad, Iraq to obtain oral/written statement from the three workers, who had allegedly paid Rs. 9000/- each to the Agent M/s. R. Singh Pratap Singh. During the visit of Chairman & Managing Director, EPI to Iraq, in the last week of June 1981, this subject was raised and the concerned workers were asked to furnish statements on the issue. But the workers were not willing to give any statement. Due to non-availability of any statements from the workers that they had paid any money to the Labour Recruitment Agents for placement in EPI, the Police dropped the case against the Agent.

44. As regards action against the officials of EPI, it was stated that the circumstances under which the information about box office advertisement had leaked out and how the list of candidates called for interview found its way to the Agent, were still under departmental investigation. The ASN of Mobilisation Bureau had however, admitted that of the two copies of the list of candidates received by him one was not traceable.

The Chairman & Managing Director transferred all the persons dealing with the Labour Mobilisation Bureau except the Head of the unit to Hqrs. Office and new hands had been posted in their places.

45. The Committee enquired whether the police recorded the statement of the officers of EPI during their investigation. The representative of EPI stated in evidence "No they did not."

46. Asked whether in the Report to the police there was any mention of the suspicion of the involvement of the staff of EPI, the CMD stated "The police had to investigate and interrogate the agent and the worker and the agent at least will be able to give a clue to the police." He added, "I have not denied at any stage that there is a possibility of a leakage and I have also said that we did not make a direct investigation to find out."

47. The Committee enquired the steps taken to avoid such malpractices. The CMD stated:

"Again and again, we are discussing as to what method we should adopt, for recruitment. In fact we are going to State recruiting agencies. But the situation and the problem will be the same, may be worse. Another source that we have tried ex-servicemen directly at the recruiting centre. We have recruited people at Roorkee, at Kirkee and at Bangalore. I have written to all the commanders that 'whenever any people are to be demobilised, the ex-servicemen, please give us an indication so that I will send my people to those centres for selecting them.' So that ex-soldiers are not required to come here and being ex-servicemen and soliders, nobody can dare ask them to pay Rs. 3,000|- when they go to their Recruiting Centre. This is the method we find. We have put in lot of efforts. This is the biggest malady. I have also written a letter to various State Governments. I have spoken on various forums on this malady. But somehow an absolute clear solution is not available."

48. The Committee enquired whether any measures have been taken by Government to check malpractices in sending of Indian workers abroad. The Secretary of the Ministry stated in evidence: "The Government as a whole is seized of it. The Labour Ministry for quite sometime has been engaged in the formulation of a new emigration Act under which the major thrust is how to control these agents."

49. As regards action taken to check corrupt practices in EPI, the Secretary stated that the total organisation had to be tightened. A Chief Vigilance Officer was being appointed in the Company.

E. Payments out of Common Funds

50. Besides making payment out of the Company's accounts for items like sponsorship fees, entertainment, sales promotion, gifts and donations, amounting to Rs. 4.65 crores from 1976-77 to 1980-81, payments amounting to Rs. 7.27 crores have also been made from two common funds created by EPI for ABHP and Sief Palace Area Building Project.

PCI-EPI Common Fund

51. EPI entered into a joint venture agreement with PCI a consultancy firm of Japan for taking up the ABHP project. The Committee of Directors at its meeting held on 15-7-76 was informed about the details of the project and that the share of PCI for its operation of the work was 4.5 per cent, that of EPI was 92 per cent and the balance 3.5 per cent was the common fund for meeting agency charges and sundry expenses of the joint venture. The Committee also noted that the common fund styled as 'Joint Venture Common Fund' shall be operated by EPI for making payments towards service charges and sundry expenses.

52. The Board of Directors, at their meeting held on 16th August, 1976, while confirming the minutes of the earlier committee meeting were also informed of the joint venture agreement, together with the financial agreement thereof. The Board authorised the then Chairman, and/or the then General Manager (Finance) to open a bank account styled 'PCI-EPI Joint Venture Account' to operate the same. The SMD was further authorised to sub-delegate the powers of operation of this account jointly from time to time.

53. The Committee enquired whether the term 'Service Charges and Sundry Expenses' has been defined. The Director (Finance) stated in evidence in the note that was placed before the Board and in the minutes of the Board meeting "Sundry expenses or Service charges were not defined. We do not know whether they were discussed in the Board Meeting".

54. Asked as to why were the various items of expenditure like sponsorship fees, entertainment expenses, Sales promotion, gifts, donations etc. for ABHP Project incurred out of accounts of EPI

if the sundry expenses and service charges were to be paid out of common fund, the SMD stated, "I am really not able to answer at this stage."

55. As regards the position about the amount credited to the Fund and the withdrawal therefrom the Committee were informed that the total amount to the credit of the fund upto 30-9-1981 was Rs. 7.27 crores. Out of which Rs. 6.51 crores has already been spent. The item-wise expenditure upto 30-9-1981 was as follows:—

	(Rs in lakhs)
Bank Charges	0.20
Commission	583.79
Legal Charges	8.10
Rent	10.69
Salary	6.14
Electricity charges	0.02
Furniture	0.24
Miscellaneous Expenses	0.02
Telephone charges	0.10
Promotion Expenses	12.03
Payment to EPI	30.00
	<hr/>
	651.33

56. The Committee pointed out that the revised contract value of the ABHP Project being only Rs. 165 crores EPI could not spend more than Rs. 5.8 crores from the common fund, the Director (Finance) stated in evidence that when the contract was signed it was for Rs. 230 crores. According to that agreement we were to pay for Rs. 230 crores.

57. Asked whether there was any agreement with the parties to whom an amount of Rs. 5.84 crores had been paid about the services to be rendered by them, the Director (Finance) referred to a letter dated 12th May, 1976 from CMD to one of the agents which *inter-alia* stated as follows:

"I hereby propose to offer your organisation 1 per cent of our contract value as fees for various services to be rendered by you at various states of implementation of the

project. Payment is subject to the condition that contract for Housing Project is awarded to the consortium and EPI made a member of the consortium."

58. In reply to a question he stated that the services to be rendered were not specified in the letter.

59. Asked about the nature of services actually rendered by them, the Director (Finance) stated 'I do not know'.

The Committee enquired about the mode of payment to the agents. They were informed that:

"From the records, it is seen that bearer cheques were drawn from time to time for all the payments towards agency commission except in a case where the amount of about Rs. 1.25 crores was transferred to a bank in Bahrain for credit to the account of a party who was not actually an agent. But the receipt for this amount was given by the agent. It cannot be said whether the agents received the amount of commission in cash or by the bearer cheque issued by the company. The receipts obtained from the recipients of the agency commission also do not indicate whether the payment was received by cheque or in cash since there is no reference about this in the said receipts. In one case, however, an amount of Rs. 37.50 lakhs was paid through a/c payee cheques."

60. As regards the details of promotional expenses of Rs. 12 lakhs, the Director (Finance) stated that there were several payments ranging from Rs. 5000 to even upto Rs. 1 lakh over a period from 1977 to 1980. Asked as to how did they call them promotional, the Director (Finance) stated "because their vouchers could not be obtained." It was explained that payments were released to the then Project Director and later when the Project Director had left the company to the GM incharge of project against certificates furnished by these officers.

61. The Committee were also informed that the salary and rent amounting to Rs. 16.83 lakhs was for the Project Director and the house occupied by him. The amount of Rs. 6 lakhs towards salary was for about 19 to 20 months and Rs. 10.89 lakhs on account of rent was for a period of 40 months for the house occupied by him and by the Project Director who succeeded him. The company

had a receipt from the landlord for the rent paid. The amount was stated to have been paid out of the common fund as the Project Director was deputed to the joint venture.

62. Asked whether there was any other employee besides Project Director deputed to the joint venture the CMD stated that "he was the only person from the EPI side on this." To a question as to the reasons for it, the CMD stated "Nothing is on record except that this was a decision taken by the joint venture to appoint a Director to look after its interest."

63. In reply to a question he stated that there was no other senior officer of EPI that had been paid so much emoluments.

The Committee enquired whether the Accounts of the fund were audited by the internal auditor or the Statutory auditors. The CMD stated that it had not been audited by any internal audit or the statutory audit. As regards the reasons for it, the Committee were informed that "this common fund has not been treated as part of the company's business transactions. But the EPI has been authorised only to operate that account."

64. The Committee also enquired about the dates of withdrawal of amount from the fund and its payment to the agents. From a statement furnished to the Committee it was noticed that generally the payment was originally made by EPI and later on these amounts were reimbursed from the common fund. The Committee pointed out that not only the amount was initially paid out of the EPI's account but ultimately the surplus and the deficit were to be merged with EPI account. Asked as to why did EPI have a separate account and not the normal company account unless they wanted it to be outside the purview of audit, the Director (Finance) stated "I would not be able to answer this".

65. The Committee also enquired whether the payments made out of the common fund were approved by the Board. They were informed that excluding the bank balance of Rs. 75.58 lakhs and payments made to EPI of Rs. 30 lakhs an amount of Rs. 621.33 lakhs was shown as expenditure out of common fund account upto 30-9-1981. The Committee of Directors at their meeting held on 27-5-77 (subsequently ratified by the Board at their meeting held on 8-7-77) was informed of the payments made to the extent of Rs. 4.803 crores and the liability to pay Rs. 0.66 crores. The Committee of Directors while noting the expenditure incurred out of common fund decided that 'particulars may be got noted in the

Administrative Ministry and the Department of Economic Affairs'. This was however, not done. A payment of Rs. 37.50 lakhs was paid to another agent on 15-5-79 and the Board informed about it at their meeting on 4-6-1979.

66. In the course of examination of the Ministry the Committee enquired whether the approval of the Ministry was obtained for the creation of the common fund. The Secretary of the Ministry stated:

"The main purpose of the letter which the Chairman of the EPI sent to the Secretary of the Ministry of July 24, 1976 was making a request for guarantees. In the letter all the details were given. All the resolutions were also annexed. And in that the paragraph which is relevant i.e. item seven of the annexure, the heading of the paragraph is the arrangement with partners or intermediaries and commission charges payable to the latter. This itself indirectly presents that."

67. In reply to a question whether the Ministry went into the powers of the CMD so far as the payments out of this common fund were concerned, the Secretary stated "I do not find any mention anywhere as to the delegation of powers with regard to the operation of the common fund."

68. Asked whether they were told that "this common fund was started and that it would not be subjected to audit", the Secretary of the Ministry stated "it was not so."

69. The Committee enquired whether the Ministry went into the details of the payments to be made out of the common fund the Secretary stated "I do not find any thing about that in the papers."

70. The Committee enquired from the Secretary whether considering the nature of payments to be made out of the fund, he did not think that some check was necessary, on the officers who operated these accounts. He stated:

"In all these types of payments normally the things should have been left at a very high level. In my opinion I feel that the Chairman or any other senior officer who has to handle these things, he should keep his own colleagues i.e. the Board and other Members informed about it."

71. Asked whether there was any decision of the Board about the level at which decisions for authorisation could be taken and the financial ceilings for such authorisations, the Secretary of the Ministry stated : "Not to my knowledge" and conceded that "there was scope for discretion".

72. When pointed out that there was no letter from any of the parties to whom large payments had been made to say what service or what work they would do on behalf of EPI, the Secretary of the Ministry stated:

"In my opinion, there is a lapse. One should have taken care to divide the payments, service rendered in securing order, etc. The major payment will be made for that. But one should have identified the payment that this was the payment for service rendered in securing order. The next lot of payments should have been distributed over a period, for the type of service required, for getting inspections done or for getting this thing or that thing done. This type of thing should have been done."

73. He added that there was also a lapse on the part of EPI in having paid balance 30 per cent of the amount payable to the agent in ABHP much earlier than it should have been paid.

74. The Committee also enquired whether the Ministry was satisfied about the need for creating these funds and keeping them outside the accounts of EPI as well as the purview of audit especially when any deficit or surplus in the accounts of these funds is to be ultimately brought into the books of accounts of EPI and in several cases the amount was first paid to the recipients out of EPI's fund and later reimbursed from the common fund. The Secretary of the Ministry stated:

"Since the order was placed on a joint venture, there could not be anything wrong in creation of a joint fund. That is the first part. Secondly, there should certainly be no objection to open it to audit. The third point is: why it has not been opened to audit? I myself raised this question and his only reply that I have been able to get is that the audit never asked this thing. Neither the statutory audit did think that it is within their purview. They went constitutionally. It is a partnership and nobody asked for this thing."

75. With reference to payment of Rs. 12 lakhs as 'promotional expenses' the Committee enquired from the Ministry whether it was permissible for public undertakings to make payments without having the necessary supporting vouchers. The Secretary of the Ministry stated:

"Normally no payment is allowed to be made without the voucher. Sir, this total amount of 12 lakhs if it is spilt into small amounts then it is not significant but if there is one payment made of 3 lakhs then it assumes significance".

76. With reference to payment of about Rs. 17 lakh towards salary and house rent for Project Director, the Committee enquired whether payment of such high salary and allowances to the Project Director was justified. The Secretary of the Ministry stated in evidence:

"If you compare it with that what is normally paid to Government servants or employees of Govt. companies or organisations when they go abroad, then it is certainly on a much higher side. If the comparison is with the people belonging to foreign organisations of international bodies, then it is not on the high side; and it is in fact comparable".

77. Asked about the payment made to the successor of first Project Director, the Secretary stated that he had been paid the normal salary which was much less than what was paid to his predecessor. There was nothing on record in regard to justification for it.

78. The Committee also enquired whether there were any guidelines and ceiling limit in regard to payment of salary, allowances and perquisites to the officers of public undertakings posted abroad. The Secretary of the Ministry stated:—

"In most of the public sector undertakings, the practice is that whatever are the salary scale within the organisation, the salary as per those scales plus foreign allowance on the pattern of what is applicable to non-IFS Government officers posted abroad, is given. Within these parameters, generally they are paid".

79. The Committee also pointed out that in the annual reports, the particulars of employees posted abroad have been given only in respect of those who would have been drawing above Rs. 3000 per month if posted in India. Asked as to what was the authority

for this restricted disclosure of information the Secretary stated "This is the practice and there was informal consultation with the Institute of Chartered Accountants." He however, agreed to a suggestion to refer the matter to the Company Law Board and to take their opinion also.

80. The Committee enquired whether there was any review by the Ministry on their own in regard to the payment made out of the fund. The Secretary of the Ministry stated "It was not reviewed".

EPI—Fujita Common Fund

81. The Company has another Common Fund known as 'EPI-Fujita Common Fund'. Sief Palace Area Buildings Project was awarded to M/s. Fujita Corporation, Tokyo and EPI were appointed as sub-contractors of M/s. Fujita Corporation. The agreement dated 14-12-1977 provided for distribution of payment to be received from the client as 6.75 per cent to M/s. FTJ and 93.25 per cent to EPI. It also provided that out of EPI's amount 3 per cent shall be kept as common fund. 1 per cent was earmarked for the Agent of Joint Venture and remaining 2 per cent for promotional expenses. The common fund account was to be operated by EPI. There is no record to show whether the approval of the Board to the agreement as well as to create such a common fund was obtained. The resolution for the opening of common fund account with Commercial Bank of Kuwait was however, passed by circulation amongst the Directors of EPI and noted by the Board at their meeting held on 10-3-1978. The Resolution authorised the then CMD and/or the then Group General Manager to open and operate the bank account and also authorised the CMD to sub-delegate the power to operate the account to two or more persons jointly. The account in the beginning was operated by the CMD. Subsequently he authorised the Project-in-Charge jointly with local Finance Officer attached to the project to operate the account. The total amount received in the Fund was Rs. 80 lakhs. Broad details of expenditure made from the common fund upto 15-10-1981 were as follows:—

	(Rs. in lakhs)
1. Fees to local agents	29.05
2. Agency commission	12.00
3. Technical Service charges	15.00
4. Payment to M/s. Fujita Corporation	16.64
5. Miscellaneous monthly payments	2.91
	75.60

82. In reply to a question the Committee were informed that the payment to M/s. Fujita Corporation was towards reimbursement of promotion expenses incurred by them.

83. Asked about the reasons for payment of agency commission as EPI was only a sub-contractor of the Japanese firm, the Director (Finance) stated "the understanding at that time was like that. If you ask 'why it was agreed' I am unable to answer".

84. The Committee were also informed that there did not appear to be any correspondence with the Ministry in regard to this fund.

IV. PROJECTS CONSTRUCTION.

A. General

1. The volume of business of the company had gone up from Rs. 23.04 crores in 1975-76 to Rs. 164.50 crores in 1980-81. As in September, 1981 it was implementing a total of 52 project contracts of a total value of Rs. 824 crores of which overseas projects were of the value of Rs. 561 crores. Thus as much as 68 per cent of its activities were concentrated on its overseas operations. Of the projects taken up by EPI, 26 projects were of the value of Rs. 5 crores and above. Out of these 8 have already been completed. While on 6 of these projects valued at Rs. 85.94 crores the company had earned a margin of Rs. 6.53 crores (8 per cent) on two projects valued at 10.87 crores it incurred a loss of Rs. 67 lakhs.

2. The following statement shows the position as on 31-3-1982 in respect of contract value, estimated margin of project an schedule of implementation in respect of 19 projects (11 foreign, 8 Indian) of the value of more than Rs. 5 crores which are under execution.

Break-up of Project-wise profits anticipated to be earned on Projects under Execution (value more than 5 crores each)

Position as on 31-3-1983

(Rs. in lakhs)

Sl. No.	Name of the Project	Contract Value		Margin/Profit		Schedule of Implementation			Time lag in months
		Original	Revised	Original	Revised	Date of start	Original schedule of completion	Latest revised schedule of completion	
1	2	3	4	5	6	7	8	9	10
1	Alia Baghce Housing Project, Kuwait	23182.00	16522.20	1060.00	-3423.40	Sept. 76	Nov. 79	July 82	32
2	Slef Palace Area Bldg. Project Kuwait.	2945.70	3289.34	141.00	-	Feb. 78	Feb. 81	July 82	17
3	35th Brigade Camp Project, Kuwait	7464.00	7859.40	373.50	-195.60	Jan. 78	July 80	June 82	23
4	Council of Ministers' Building Project, Iraq	3411.00	4028.37	171.63	-1101.94	May, 79	May, 81	Aug. 82	15
5	Water Research Centre Project, Iraq	1550.00	1447.00	92.96	Nil	Aprl. 79	Aug. 81	Aug. 82	12
6	Radio & TV Expension Project, Iraq	1338.00	1431.92	53.45	53.45	Mar. 79	March, 81	Feb. 82	11
7	Seed-3 Project, Iraq	4216.00	3800.00	198.67	57.26	Dec. 78	Nov. 80	Mar. 82	16
8	Central Grain Silos Lot-4 Project, Iraq	4288.00	4398.74	214.40	247.06	Jan. 79	Sept. 81	Dec. 82	15
9	Northern Grain Silos Lot-3A Project, Iraq	4562.00	4627.85	228.10	-31.74	Aug. 78	April 81	Sept. 82	17

1	2	3	4	5	6	7	8	9	10
10	Northern Grain Silos Lot-3-A Expansion Project, Iraq	2897.64	2897.64	289.60	202.86	Jan. 81	Sep. 83	Sep. 83	..
11	Central Grain Silos Lot-4 Expen- sion Project, Iraq	2114.88	1631.34	214.40	169.08	May 81	Feb. 83	Feb. 83	..
<i>New Projects:</i>									
12	Meghatuburu Iron Ore Project	846.97	1263.12	28.82	Nil	Mar. 78	Mar. 81	Sept. 83	30
13	Tuticorin Coal Handling Project	540.63	540.63	33.12	8.31	Oct. 76	Jan. 79	Aug. 80	19
14	Bongajson Coal Handling Project	640.00	661.40	52.43	24.86	Dec. 77	Dec. 79	June 82	30
15	Upgradation of coal for Dugda-I Dhanbad and Upgradation of sists for Dugda-II Dhanbad.	734.00	734.00	82.96	55.17	Mar. 76	Mar. 79	July 82	40
16	Supply & Erection of furnaces for RSP, Bhilai	910.00	910.00	14.00	—44.78	Oct. 76	Oct. 80	Oct. 82	24
17	Bokaro Finishing & Proces- sing Lines Project	11200.00	Under Revision	Under Revision	Under Revision	May 77	Dec. 81	May 83	15
18	Calcium carbide project for UPSIDG Dehradun	575.00	Under Revision	42.05	Under Revision	Feb. 79	Mar. 81	Under Revision	..
19	Supply of Decarburizing & Tandem Annealing lines for RSP, Rourkela	1283.00	1283.00	40.90	30.88	Apr. 79	Mar. 81	Dec. 82	21

Note: While arriving at the estimated Profit/Loss, the claims lodged by DFI on clients/associates and vice versa have not been reckoned

3. It would be seen from the above statement that the company is much behind the schedule in completion of the projects, the delay ranging from 11 months to over 40 months. Similarly as against original estimated margin of Rs. 33.31 crores on these projects, the Company would incur as per revised estimates a loss of about Rs. 41.49 crores.

4. In addition there were heavy claims lodged by the sub-contractors/associates of EPI as well as the penalties by the clients for delays in completion of projects. From the information furnished to the Committee it was noticed that the sub-contractors/associates in foreign projects had lodged claims to the extent of Rs. 102.51 crores. Most of these claims have however, been refuted by EPI. On the other hand EPI had lodged counter-claims on sub-contractors to the extent of Rs. 6.43 crores only. Further, EPI had lodged claims to the extent of Rs. 65.68 crores on various overseas clients. On the other hand taking into consideration the anticipated completion dates of the projects the maximum penalty liability of EPI would be to the extent of Rs. 42 crores. Out of this, penalty to the extent of Rs. 38.88 crores had already been imposed by the clients upto 30-9-1981. In respect of Iraqi projects it had however been stated that the project had been mainly delayed due to Iran Iraq hostilities. EPI was hopeful that client taking into consideration the circumstances leading to these delays would grant extension of time and the penalties would not be finally imposed.

5. The Committee also enquired about the foreign exchange earnings of EPI in respect of foreign projects. They were informed that there was a net foreign exchange outgo of Rs. 16.68 crores during the last three years.

6. The Committee enquired the reasons for heavy losses on ABHP Project on which EPI was expected to incur the highest loss of Rs. 34.23 crores and in which there had been time slippage of 32 months. EPI stated that the main reasons for the loss on this project were as under:—

- (i) The contract entered into with the client contained certain stringent conditions dealing with materials and engineering specifications. Besides this very high quality standards were laid down for acceptance of works. The client's literal insistence on EPI's complying with these conditions led to heavy rejections of materials/works, even at a very advanced stage of completion in certain cases. A case in

- point is the initial acceptance of door-frames and subsequent rejections of the same, after they had been incorporated in the works.
- (ii) Loss on uneconomical operations of quarry.
 - (iii) Substantial time over-run in the implementation of the project, as a result of the delays caused by the rigid and non-cooperative attitude of the client, delays in handing over sites, making available water and power supply for construction, delays in approval of drawings, samples of materials etc.
 - (iv) Heavy rejections of materials, fabricated items, etc. by the client at various stages of completion, on very minor grounds.
 - (v) Ban imposed by the Government on the export of certain essential construction materials like cement, steel etc., thus forcing EPI to procure these items from third countries at higher prices; and
 - (vi) Heavy financial charges due to borrowing abroad, for periods longer than anticipated.

7. With reference to point (i) above, the Committee enquired whether the stringent conditions regarding materials and engineering specifications were not known from the very beginning. According to EPI:

"It is not a case of conditions being stringent but is a case of the rigidity with which the same were applied while inspecting and accepting the work. The client had become rigid in his attitude only after the work had started and there was no indication of his non-cooperative approach earlier."

8. As regards heavy rejection of materials the Committee enquired whether adequate quality control measures were adopted to ensure that the materials equipment purchased for the project conformed to the specifications laid down by the client. According to EPI while adequate quality control measures were adopted including the engagement of an inspection agency of international repute and even though the client engineer had accepted the work at one stage, at subsequent stages of inspection the work used to be rejected on grounds such as no. and colour of chips in the tiles not matching

with the slab and no. and size of knots being smaller or larger in door frames etc. The value of materials/works rejected by the client was stated to be Rs. 487.09 lakhs.

9. Asked whether any part of it could be recovered from the supplier, it was stated that the claims had been filed against cement suppliers while for the supply of timber, the entire issue was under arbitration.

10. In one of the foreign projects the reasons for escalation of cost was stated to be encountering of unforeseen hard rock during excavation. The Committee enquired whether proper site investigations were carried out before bidding for the project. The EPI stated that the site investigation was limited to visual examination. Soil as then observed did not indicate any condition that rock was likely to be encountered while implementing the project.

11. In the course of examination of the Ministry the Committee enquired as to what were the main constraints in execution of the projects in time and as per the estimates and what was the assistance rendered by the Ministry in overcoming them. The Secretary of the Ministry stated in evidence that "the most important constraint was about management capability..... Given the expertise available in India in the field of construction of good managerial organisation could have mobilised the right type of expert persons and they could have been provided with jobs."

12. In their inspection reports in 1981 the IDPI adversely commented upon some of the foreign projects of EPI. In respect of ABHP the report pointed out that the General impression was one of slack project management, inadequate information systems, lack of coordination and poor publications. The predicament of the ABHP deserves attention at the highest levels so that a crash completion programme may be taken by a well-knit Project team. With reference to Council of Ministers Building Project it had been stated that EPI will have to evolve a crash programme for completion of work by deploying more men and material and Government of India might also have to step in to provide necessary priority in allocation of various inputs. This project if not completed to the satisfaction of Iraqi Authorities was likely to make an adverse impact on our prospects for getting further contracts in Iraq. The matter might have to be considered at a very high level by the concerned Ministry of Government of India and EPI's management.

13. The Committee enquired whether the Ministry received inspection reports of IDBI in respect of various projects of EPI and if so, what cognisance of these was taken. The Secretary of the Ministry stated in evidence that this was received in June, 1981. These were all such things which had already been taken note of in the various review meetings.

14. As regards crash programme for completion of the project the representatives of the Ministry stated that a group of three officers was constituted to concentrate on each point and to get the work done on crash basis.

15. The Committee enquired whether any of the foreign projects have been taken up for case study to analyse the reasons for heavy time and cost over-run. The Secretary of the Ministry stated that although no such study had yet been done, they had asked E.P.I. to undertake such a study.

B. Organisational Structure

16. In a note furnished by the Ministry it had been stated that certain organisational and functional weaknesses had been noticed in the EPI's functioning in the past such as:

1. Lack of well-developed in-house capability to analyse and estimate projects accurately, lack of adequate data about international markets and price trends.
2. Lack of an organised set up to undertake project analysis evaluation and preparation of detailed plans and schedules at Headquarters Office.
3. Difficulties in exercising proper financial control in the absence of realistic and reliable estimates at tendering stage.

17. The Committee enquired the reasons for not taking timely measures to remove these deficiencies before taking up big projects for execution. EPI stated that "The organisation structure of EPI was at that time considered adequate enough for the size and the number of projects EPI was handling in the past before it had entered in a big way and started taking up the large projects for implementation, such as ABHP in Kuwait. The increase in work was nearly ten fold when compared to the work in hand, that was being handled earlier. It is only after taking up these big multi-disciplinary projects in the international field that some organisational and functional weaknesses surfaced."

18. Asked about the steps taken to introduce necessary organisational changes to meet the requirements of increased activities in overseas market, the CMD stated in evidence:

"We have undertaken complete reorganisation within the Headquarters. During this process of reorganisation we have set up new divisions to do detailed planning after the contract has been taken. This Planning and Design Division prepares complete planning schedules, manpower, assessments, requirements of materials, planning equipment schedules, time charts. From these they derive milestone charts etc. so that for the project it is fully known as to how it has to be worked."

19. Asked as to when these divisions were created, the CMD stated 'In the beginning of 1980 i.e. April, 1980'.

20. The Committee enquired as to why the scrutiny or the planning as was being done now from April 1980 onwards was not done when EPI took up the job of Rs. 230 crores. The CMD stated that these functions at that time were delegated to the project site. It was not done in the headquarters. He, however, admitted that:

"The expertise that has been put on this is much more improved and is better than what it used to be earlier. Secondly, the headquarters team starts on this work immediately when the tender is going to be allocated whereas at a site the project team can start functioning only after a certain amount of delay takes place. That particular aspect is avoided and the scheduling which is much more detailed now was not done as it is done now."

21. The Committee enquired as to when was the post of full time Director for International Projects sanctioned and when was it filled up. It was stated by EPI that the post of the full time Director (International Projects) was sanctioned on 22-6-78. The recruitment to this post had however, been delayed from time to time for various reasons. The Secretary of the Ministry gave the following main reasons for the delay:

- (a) The first person selected for this post could not assume the charge as he had passed away in February 1979.
- (b) The second candidate chosen for the post in August 1979 by the reconstituted selection Committee was not released by the State Government.

(c) The third candidate selected in July, 1980 did not join, and later sought voluntary retirement in the middle of 1981.

(d) Finally a person has been selected for the post.

22. Asked as to whether the work did not suffer on account of the post of Director (International) remaining vacant, the CMD stated in evidence " we have tried to cover as much as possible by the existing staff."

23. The Committee enquired whether there had been instance, where the powers delegated to CMD had been exceeded and how many time post-facto approval had been sought from the Board/Committee of Directors and the reasons for it. E.P.I. had stated that the first delegation of powers to CMD was given by the Board of Directors at their meeting held on 22-6-70. These were revised partially from time to time depending upon the organisational growth and its needs. During the past four years i.e. 1977-78 to 1980-81, CMD had exceeded the powers in 30 cases. Ex-post-facto approval of the Board/Committee of Directors had, however, been taken in these cases. According to EPI in most of the cases, as a Chief Executive of growing company, the CMD had to take certain decisions on the spot for the expeditious disposal of certain issues in the company's interest and also to promote good will and friendship with the clients mostly in overseas projects. From the list of cases furnished to the Committee it is, however, noticed that these included even cases like borrowing large amounts from foreign Banks, award of contracts, write off of losses on the disposal of materials, vehicles, assets etc., giving of large gifts and donations, etc.

C. Purchases

24. It has been stated in a note furnished by EPI that detailed procedures for the procurement of materials and equipment to be used/installed in construction works undertaken by them had been laid down. Detailed procedures exist covering the various aspects of (a) registration of suppliers; (b) issue of enquiries and receipt of tenders/(c) scrutiny of tenders by duly constituted Tender Scrutiny Committees (TSC) and (d) approval of the TSC's recommendations by the competent authority.

25. Negotiations with suppliers, wherever necessary, are conducted in the presence of representatives from Marketing/Implementation, Purchase and Finance Division. The procedure for composition of the Tender Scrutiny Committees for different levels of purchases,

such as (a) cases requiring approval of CMD and board, (b) cases within the powers of General Managers and (c) cases falling within the powers of Purchase Manager/Dy. Purchase Manager, is also laid down in the office order.

26. Similarly, detailed procedure for constitution of Tender Scrutiny Committee for placement of purchase orders/contracts for projects of EPI in Middle East countries has also been issued by the company.

The Report of internal Auditors for 1978-79 on ABH Project however, revealed serious lapses and irregularities in making petty purchases, purchases of equipment for Quarry and other purchases. In regard to petty purchases the main shortcomings noticed were (1) exercising of powers to purchase materials upto KD 200 on single quotation basis without association of finance and in many cases without recording reasons showing emergent circumstances in which the purchases had to be made. (2) misutilisation of delegated power by splitting the orders into the orders of less than KD 200 so as to avoid the finance association and other procedure to be followed for making the purchases. (3) payment of different prices/rates for the same material and not making purchases from the party who supplied materials at lower prices by avoiding calling tenders from them. (4) failure to follow the required purchase procedure for purchases of the value of more than KD 200. (5) absence of any system of linking of indents with PPOs released.

27. In case of other purchases the major discrepancies noticed included:

- (i) Placing of orders without obtaining quotations.
- (ii) Non-indication of minimum technical details at the time of invitation of quotations.
- (iii) Non-availability of indents for most of the local purchases.
- (iv) Placing of orders without approval of TSCs in some cases.
- (v) Placing of orders in some cases for the same items to different parties at different rates even on the same day without assigning any reasons.
- (vi) Actual expenditure exceeding the budget provision.

Purchase Manager, Kuwait

28. The purchasing activities of ABHP project were previously being looked after by Shri C. Akbar who was appointed in the company as a purchase manager on 4-10-76 and was posted at Kuwait.

The Committee examined in detail the manner of appointment of Shri C. Akbar as the purchase manager and the action taken against him for various irregularities. The following facts emerged:

29. Prior to his appointment as purchase manager, Shri Akbar was working as Asstt. Supdt. in Durgapur Steel Plant. He was interviewed for the post of General Project Manager on August 10, 1976 by a Selection Board of EPI for which he was not found suitable but was recommended for appointment to the post of purchase Manager although no such post had been created at that time. The recommendation of the Selection Board was subject to condition that in order to have a wider choice, the appointment of Shri Akbar may be finalised after interviewing candidates for such a position. No such interview was however held. The Chairman and Managing Director approved the appointment of Shri Akbar as purchase manager on August, 24, 1976 with the direction that the offer of appointment be issued at once and Shri Akbar be posted at Kuwait. Accordingly the offer of appointment was issued to Shri Akbar on August 25, 1976. Shri Akbar joined the post of Purchase Manager w.e.f. October 4, 1976 after getting himself relieved from his previous employer. He reported for duty at Ardiya Housing Project at Kuwait on 15-11-76.

30. In May, 1978, the internal auditors submitted a report on ABHP Project pointing out serious irregularities in making purchases etc. Shri Akbar was transferred by the Project Manager, ABHP to Central Workshop and Garage as Project Manager with immediate effect on May, 2, 1978. He handed over his Charge to Deputy Purchase Manager without preparing any special handing over Report. He also submitted his resignation on 30th May, 1978. Before taking any action on his resignation letter, Shri Akbar was transferred on 4th July, 1978 to India and was asked to report at Bokaro. He was, however not relieved by the Project Director immediately because Shri Akbar wanted to consult certain files to reply to audit objections relating to purchases made by him while he was functioning as purchase manager. He was relieved from Kuwait on August 26, 1978. with instructions to report to GPM at Calcutta. Instead of reporting at Calcutta he submitted a note dated August 30, 1978 to Head Office requesting to be relieved in pursuance of his resignation letter dated May 30, 1978. This request was processed by the staff division. The G.M. observed—

“Before he accepts his resignation we should get confirmation from Kuwait office that he has no case dues pending against him.”

The CMD observed on the same as follows:—

“His visa got by EPI for residence in Kuwait should first be cancelled; and he be sent to Delhi. After he arrives in Delhi his resignation will be accepted according to rules, and after he has cleared all his dues and explained satisfactorily all the audit objections which have been brought against him a few months ago.

It is surprising that he is referring to his resignation letter of May, 1978, after the audit queries against him. He had bagged of me to return the resignation letter to him at that time and on that I had transferred him to Bokaro. He was not relieved by the Project Director, A in Baghze Project soon because Shri Akbar wanted to stay in Kuwait to be in a position to consult the files and reply the audit objections relating to a number of purchases made by him.”

31. In compliance with the above orders of the Chairman and Managing Director, the then Group General Manager, *vide* his telex dated September 14, 1978 requested the then Project Director, ABHP, to send the information regarding findings and recommendations of the enquiry in respect of audit observations referred to above. He also sought the advice of the Project Director, whether in the light of the above findings, Shri Akbar could be relieved from the service of the company. The Project Director sent a note dated September 14, 1978 enclosing herewith explanation of Shri Akbar on the audit queries, comments of D.G.M. (F) and the General Manager.

32. As Shri Akbar had not explained the audit observations satisfactorily and had also not reported at his place of posting *i.e.* Bokaro, the Regional Passport Officer, Delhi was requested to on 22-9-78 to impound the passport of Shri C. Akbar and not to allow him to use the same for going out of the country.

33. A telex was also sent on October 24, 1978 to Ardiya Housing Project to take up the matter with the concerned Kuwaiti Authorities not to allow any entry visa to Shri Akbar. This was followed by a letter dated November 15, 1978 to the Embassy of Kuwait in Delhi. Letters sent to the permanent address of Shri Akbar in Kurnool District, Andhra Pradesh and at his Durgapur address, returned undelivered. The CMD however admitted during evidence that there was no information to show that the police was any time informed about it. He also conceded that some more effort could have been definitely made to trace him.

34. In February, 1980 the management decided to depute a senior officer (GGM) of the company to make some preliminary investigation into the alleged malpractices indulged in by Shri Akbar and also to collect, if possible, evidence to prove the charges. He submitted a report in July 1980. The preliminary investigation conducted by him did establish the fact that Shri Akbar misused his official power and resorted to certain irregular practices with mala fide intention to defraud the company.

35. The following were some of the disclosures made in the Report by the investigating officer:

"In my informal discussions with some of the senior persons associated with the project at Kuwait, it was revealed that despite the fact that on the surface it seemed procedures were being followed, the possibility of temptation to resort to malpractices by persons who were not associated with the company in its early stages and were not exposed to purchase activities in a highly fluctuating market as Kuwait, cannot be ruled out. Several instances were quoted to strengthen this assumption where EPI Personnel involved in purchasing activities have been offered cash discounts which in fact was not mentioned in the vouchers... It was also learnt that purchases of substantial nature were made from such parties who were neither stockists nor were established in the field whose rates were decidedly higher than the prevailing market rates... It was also reported that despite the fact that materials were required urgently, the relevant TSCs were kept pending, probably deliberately, and these were cleared only after personal negotiations with the suppliers. There were instances when orders were placed by personal visit to the supplier's premises."

A company 'who supplied doors to EPI at KD 22 per door is alleged to have deposited about 5 per cent of the value of the purchases in an Indian bank account of the concerned person. Incidentally, the price of a similar door purchased later was KD 10.500 per door.'

Two companies 'used to have an arrangement with the concerned person, more or less keeping him on their pay roll with a view to obtain purchase orders regularly. This is borne out by the fact that immediately after the departure of this person these two companies rarely came into picture in so far as EPI purchases were concerned.'

"Yet another point that came into light during the course of investigation was that even though such undesirable activities on the part of EPI officials were brought to the notice of higher authorities, no action seems to have been taken. While it is appreciated that a strict control on day-to-day basis cannot be exercised on officials engaged in purchase activities in a highly fluctuating market like Kuwait, nonetheless when the integrity of a particular person is doubted and has been brought, in confidence, to the notice of the authorities by the colleagues as well as by the suppliers, some action should have been taken. It would appear that even this has not been done."

The investigating officer concluded in his Report:

"much more detailed investigation in depth would be required to go into the authenticity and factual proof of all the malpractices/allegations and possible charges of graft.... Even then it is pretty doubtful whether the parties concerned would come out into the open to substantiate these charges for reasons best known to them. In the light of the above, we have to go only by the circumstantial evidence that the person has absconded from the scene without getting a proper release from the company and has left all his personal possessions including a new 'NOVA' car to conclude that there has been a serious lack of integrity in his official dealings with the suppliers on behalf of the company."

36. Thereafter Director C.V.C. was asked on August 22, 1980 for advice as to what further action could be taken by EPI. In their letter to C.V.C., EPI while seeking the advice of CVC as to what further action was required to be taken by the management in this case observed "looking to the circumstances of the case the management is of the opinion that a formal departmental enquiry should be held in absentia and based on the enquiry report take necessary action under the company's disciplinary rules."

37. In a subsequent letter dated 26-11-80, to the Director CVC EPI observed "It is doubtful whether Shri Akbar could still be considered as an employee of the company as his services stand terminated by efflux of time. If the employer-employee relationship itself does not exist it will be a futile exercise to proceed with departmental enquiry. Having regard to the totality of the circumstances it appears advisable to accept his resignation from the service of the company."

38. EPI was advised by CVC on 29-1-1981 that 'since the matter is purely administrative in nature, the EPI may decide the matter on their own.' In pursuance of this advice the resignation of Shri C. Akbar was processed and it was decided to accept his resignation subject to clearance of outstanding dues. No dues certificate had since been received.

Purchases for and Operation of Stone Quarry at ABHP

39. A loss of Rs. 3.34 crores is stated to have been suffered by EPI on account of uneconomical operation of a quarry taken on lease in April, 1977 for extraction of gravel for supply of aggregate required for ABHP. The Addl. Secretary and Financial Adviser, Ministry of Industry, conducted a study and reported on the operations of the quarry in March, 1979. The Report revealed that this particular segment of ABHP has resulted in considerable loss to the company due to mismanagement. Most of the decisions were taken by the then Project Manager, the Project Director in utter disregard of procedures and propriety. The agreement was signed by the Project Director without placing before the Board/Committee of Directors the additional data required by them. The agreement signed contained various mis-statements and facts. For instance it mentioned that M/s. YAAS was the owner of the quarry, whereas he was only a lessee and he had no right to sub-let the licence without prior written permission of the Ministry of Commerce and Industry. According to the Report the facts uncovered established beyond doubt financial irregularities, improprieties and perhaps collusion with M/s. YAAS from whom lease was obtained. Equipment of the value of KD 1.33 million was purchased for the quarry and crushing plants. In regard to purchase of equipment for the operation of the quarry, the Report revealed that little or no technical evaluation was made by the project authorities to establish the suitability of the equipment to be obtained nor was the competitiveness of the price established through a cost benefit analysis. Certain trucks were purchased without explaining the need for them. Secondhand equipment was purchased without the approval of the Board or Chairman. Sanction accorded by the Board for purchase of equipment was exceeded by the Project Director to the extent of KD 1,80,000 (Rs. 54 lakhs.) The approval of the Board was not sought for the excess purchases made even on ex-post-facto basis. The Report suggested for consideration a more detailed enquiry to establish responsibility.

40. The Committee enquired about the action taken on the basis of the Report. The Secretary of the Ministry stated in evidence:

that the decision was taken was taken by the then Secretary with the approval of the Minister that the Addl. Secretary be asked to talk to some other people and find out some more details. He collected further evidence. Thereafter, the papers were sent to C.V.C. in October, 1979. The case was handed over to CBI who conducted the enquiry during the first week of September, 1980 and submitted its report in December, 1980. According to EPI, the findings changes of CBI in brief were as under:—

1. S/Shri M. S. Lal, P. B. Rao, R. K. Wadhwa & B. R. Kinra played prominent role in the lease of Al-Subiya quarry from M/s. Yusuf Ahmed Alghanim & Sons (YAAS) and that they failed to verify the ownership of the quarry before hiring on lease.
2. They also failed to conduct a proper survey of the quarry to assess whether the required quantity of 5 lacs cu. mtrs. of gravel would be available from the quarry or not.
3. They also failed to see the consequences and financial implications of the clause in the agreement which bound EPI to purchase equipment and machinery for the quarry through M/s. YAAS only.
4. In a few cases of purchases of equipment from M/s. YAAS, the investigation revealed glaring instances of inadequate care and scrutiny in the assessment of right type of equipment.
5. In conclusion it was stated that S/Shri M. S. Lal, P. B. Rao, R. K. Wadhwa & B. R. Kinra were responsible for making these purchases which had landed EPI in heavy losses.
6. It was, therefore, finally recommended by CBI that S/Shri P. B. Rao, R. K. Wadhwa & B. R. Kinra should not be given any assignment in any government departments or public sector undertakings.

41. The Committee were informed that S/Shri M. S. Lal expired on 5th October, 1980 while S/Shri P. B. Rao & R. K. Wadhwa have since resigned from EPI and were relieved on 18th June and 25th September, 1980 respectively. Shri G. R. Kinra who was a consultant on contract basis with ABHP has since left the organisation since his contract had expired in the year 1979 and the same was not further renewed.

42. The Committee enquired whether it was proper on the part of EPI to accept the resignation of officers found responsible for various lapses while the enquiries against them were still pending. The Secretary of the Ministry stated:

“Legally the position is like this. If we do not accept resignation and the man stops coming to duty on the day his notice period expires, because these appointments are contractual appointments, they are not pensionable, the Government has no control. This type of check is possible through pension rules. And in public sector all these jobs being more in the nature of contract, we cannot do anything.”

The Secretary added, “If we institute a criminal case, the matter is different.”

43. The Committee enquired about the remedial measures taken to void recurrence of similar financial irregularities etc. The EPI, stated that the remedial measures adopted are:—

- (i) Budgetary & financial control on project operations has been strengthened.
- (ii) A separate Plant & Equipment Division has been set up at HO. This division controls and monitors the deployment of all plant & equipment. The division examines the need for fresh equipment critically. If any plant or equipment required by a specific project is not readily available within EPI, then only purchase is resorted to.
- (iii) While making such purchases the make of the equipment is also kept in view so as to rationalise the holding of maintenance spares and other materials to keep the equipment in good working order.

D. Write offs

44. Large amount has been written off by EPI in 1980-81 and 1981-82 on account of losses suffered on the disposal of equipment, materials and vehicles of ABHP. As per delegation of powers, the write offs of any item of stores, equipment, tools and plants and materials above the value of Rs. 10,000 in each case required approval. However, there was only *ex-post-facto* approval obtained

for these write offs from the Committee of Directors as shown below:

Date of meeting	Items		Value of items written off loss on sale
4-6-80	Materials	KD	116008.427
	Vehicles	KD	3544.175
	Equipment	KD	22109.000
12-8-1981	Damaged stores	KD	25500.676
	Company Vehicles	KD	519.000
	Damaged material Aggregates/sand	KD	^{99864.473} 495798.000
	Tiles	KD	100 13.825
	Total	KD	<u>864057.606</u>
			<u>%</u> (Rs. 2.59 crores Approx.)

E. Borrowings

45. In order to meet the financial requirements for their overseas project, EPI had borrowed large amounts from time to time from foreign banks. The total amount borrowed was Rs. 93 crores.

46. As per Section 293 of the Companies Act, 1956 no company except with the consent of the shareholders in general meeting is empowered to borrow moneys where the moneys to be borrowed exceed the aggregate of the paid up capital of the company, and its free reserve. The Committee enquired whether the approval of the Board and the shareholders had been obtained for this large amount borrowed by the company.

47. The EPI stated that in respect of Iraqi projects even though individual sanctions for overdraft limits for overseas borrowings were obtained through IDBI working Group, the overall limit of Rs. 39.17 crores for all the Iraqi projects were formally got approved by the Board only on 23-6-1981, and by the shareholders on 17-8-1981.

The position in respect of Kuwaiti Project was as follows:

Name of Project	Sanctioned limit (Rs. in crores)	Board approval	Shareholders approval
ABHP	56	As per details given below	17-8-81
35th Brigade Camp	9	29-8-78	25-10-78
Sief Palace Area Bldg. Project	3	27-10-79	18-12-79
	68		

(Rs. in Crores)

Request date for over draft	Date of approval by Board	Date of share holders approval	Limit sanctioned	Cumulative position of limits	Remarks
1-2-77	31-5-77	2-6-77	Rs. 3	Rs. 3	
9-8-77	6-8-77	11-8-77	Rs. 10	Rs. 13(3+10)	
5-1-78	29-12-88	17-7-77	Rs. 4.5	Rs. 17.5 (13+4.5)	
30-10-78	5-2-79	20-3-79	Rs. 21	Rs. 24 (incl. quarry)	Ex-post-facto approval.
18-1-79	4-6-79	30-6-79	Rs. 30	Rs. 30	Ex-post-facto approval.
18-1-79	27-10-79	18-12-79	Rs. 39	Rs. 39	Ex-post-facto approval.
18-1-79	7-1-80	21-1-80	Rs. 44.10	Rs. 44.10	Ex-post-facto approval
18-1-79	23-6-81	17-8-81	Rs. 12	Rs. 56.10	

- Notes : 1 Rs. 21 crores limit was inclusive of all previous limits sanctioned, excepting Rs. 3 crores for quarry
- 2 When the limit for Rs. 39 crores was sanctioned, the loan for quarry was also incorporated in the overall limit.
3. Rs. 12 crores loans, sanctioned by govt.

48. The Committee enquired whether the Board of Directors took exception to this practice of violating the Company Act and borrowing money without the sanction of the Board. The CMD stated "There is no record to show that they took exception."

49. The Committee were also informed that while approving the proposals for the above overdraft limits, shareholders had also not made any comments.

50. As mentioned in Annual Report, for 1980-81, as a part of liquidating overdraft/loan facilities being operated for the implementation of overseas projects and also to avoid making payments in foreign exchange towards interest charges, the Govt. released an amount of Rs. 31.88 crores (in foreign exchanges) as loan.

51. In the course of examination of the Ministry, when the Committee pointed out that EPI had borrowed large amount from foreign Banks, in violation of the Companies Act, the Secretary of the Ministry stated in evidence:—

“To avoid this type of situation and to run the Company well, an institution or a Group should lay down proper procedures and policies right in the beginning itself so that there will not be any failure of the organisation. I do feel that there is something wrong in the system and in the procedures of the Company. They are not adequately and elaborately laid down.”

52. The Committee enquired whether there should not be limit to borrowing by Govt. Companies even with the approval of the General Body, the Secretary of the Ministry stated that if the proper procedure is followed and ‘the General Body meeting is held then the agenda is always scrutinised by the Ministry because the shareholders’ representative must be provided by the Ministry. He cannot say ‘yes’ unless it has been scrutinised by the Ministry’. He added:—

“...Borrowing is really to feed the contractors. This is what they have been doing. That is the real ill which we have to rectify.”

53 To a question whether it would not be a healthy practice to provide for Ministry’s approval for borrowing beyond a particular limit, the Secretary of the Ministry stated:

“We can develop a guideline for the Govt. Directors in such cases...The Government Directors when such things come up may take a stand sitting over there in the Board but before hand they should get the whole thing examined.”

54. The Committee were also informed that since 1975, the EPI have to go the IDBI for clearance of their foreign projects. This clearance included their borrowing limits as well as the foreign exchange limit. Further, for a guarantee of Rs. one crore and above Government approval was called for.

F. Construction of Squash Court

55. One of the Projects taken up by EPI is 35th Brigade Camp Kuwait. From a note furnished by EPI at the instance of the Committee it was noticed that on the suggestion of the Ministry of Defence Kuwait, EPI had agreed to construct 'free of charge' squash court at Salmiah Club Kuwait for use by the local defence personnel. This was stated to have been agreed to as a good-will gesture by the then CMD.

56. The original estimated cost was Rs. 30 lakhs. The proposal was put up to the Board on 27-10-79. While approving the proposal the Board noted that since the then CMD had already made the commitment, there was, therefore, little choice in the matter and any withdrawal at that stage would adversely affect the consideration of delays by the Client of the claims preferred by EPI for condonation of delays for escalations etc. presently under consideration of the client. The Board, however, observed that commitments of such magnitude should not be made without Board's prior approval.

57. The Board also decided that in future all gifts etc. above Rs. 3 lakhs or which exceed 5 per cent of the profits estimated on a realistic basis for that project, which ever is less, should be made, only with Board's prior approval. The Board also desired to know the circumstances under which the then CMD made this commitment without obtaining Board's prior approval.

58. The cost estimate approved in the Board meeting held on 27-10-79 was revised upwards to Rs. 60 lakhs and the same was considered by the Committee of Directoros at their meeting held on 30-10-1980 and 2-11-1980. While clearing the proposal, the Committee stipulated that the additional request of Rs. 60 lakhs over the initial provision of Rs. 30 lakhs should be covered by negotiated prices to be decided with the client for various variation orders.

59. The Board of Directors at their meeting held on 20-11-1980 accorded post-facto approval for the above proposal with the stipulation that initial estimates should be carefully prepared to avoid such cases in future.

60. The Committee enquired about the latest position in regard to the completion of the Squash Court and the expenditure incurred thereon. The CMD stated in evidence that it would be completed in December, 1981 or January, 1982. As regards expenditure the liability of EPI would be to the extent of Rs. 30 lakhs only. The additional Rs. 30 lakhs would be reimbursed by the client in the variation order for different items of work. EPI had already received one payment towards that.

61. Asked as to whether the letter was sent to the then CMD as decided by the Board to find out the circumstances under which the CMD made this commitment without obtaining prior approval of the Board, the CMD stated:

"The executive officer drafted the letter to be signed by the then Chairman. He put that up to the Chairman for issue. But the file did not come back to him for issue."

62. Asked whether the Secretary reported back to the Board at the next meeting about the action taken as per the direction of the Board, the CMD stated:

"The Secretary mentioned that it was informally discussed in the next Board but it was not recorded."

G. Arrest of Officers of EPI in Kuwait

63. It also came to the notice of the Committee that two officers of EPI Shri J. Hormis, General Manager (Marketing) EPI Kuwait and Shri N. C. Basak, General Manager (Implementation) 35th Brigade Camp Project, Kuwait were arrested by the local CID and later released on the intervention of senior officers of EPI. The facts of the case furnished by EPI in a note at the instance of the Committee were as follows:—

"During 1978, Shri Hormis, while preparing the tenders for the construction of temporary barracks for the Kuwaiti military authorities, had contacted one firm of consultants and had arranged with them on a pre-tender basis to render certain engineering services. Their fees after negotiations, were settled by Shri Hormis at KD 85,000, which included an understood amount of KD 20,000 which the party, i.e. as a Consultants, were supposed to refund to Shri Hormis.

Subsequently, when the contract was received by EPI and the project was handed over to the Implementation

Division headed by Shri Basak, Shri Basak honoured the earlier pre-tender commitment and cleared a payment of KD 85,000. The refund of KD 20,000 to Shri Hormis was being arranged through a cheque payment by M/s. ASA Consultants and Shri Hormis had deputed a third party to collect this payment for a consideration of KD 2,000. The third party, referred to above, perhaps had some doubts and informed the local CID which picked up Shri Hormis when he was collecting the payment from the party in the bank premises.

The case was pursued by the police when Shri Basak was also called to the police station and imprisoned for some time. There two gentlemen, i.e. Shri Hormis and Shri Basak, were later released by the Kuwaiti police and the case went to the Court. During this period, Shri R. K. Khanna, the then GGM(F) of EPI went to Kuwait and made a statement to the Investigating Officer that the transactions arranged by Shri Hormis were very much within the knowledge of the management of the company based on which the Kuwaiti court absolved both the officers. The amount of KD 20,000 has been released by the court and credited to the a/c of the 35th Brigade Camp Project. The Indian Embassy was aware of this episode."

64. In evidence the Committee enquired as to who decided to send an officer from India to certify that the whole transaction was within the knowledge of the Company. The CMD stated "as far as I know the CMD himself."

65. Asked as for what purpose was this money to be utilised, the witness stated "this was meant for promotional expenses". To a question whether the cheque was given in the company's name, he stated 'no, it was a bearer cheque'.

66. The Committee enquired whether any action was taken against the persons involved in this deal. The CMD stated that no other action was taken at that time. Subsequently however, Shri Hormis submitted his resignation from the service of the company on 17-8-1979. Acceptance of his resignation was kept in abeyance pending scrutiny of certain matters pertaining to his tenure of service in Kuwait. He, however, stopped attending office after 16-11-1979 on the plea that he automatically ceased to be in employment of EPI on expiry of three months' notice period which expired on 16-11-1979. On ascertaining the legal position in a similar case, the Company decided to accept the resignation of Shri Hormis subject to clearance

of dues. He has not yet been released since he has not cleared his dues amounting to Rs. 9000. Shri Basak was transferred from Kuwait to Bombay on 19th December, 1978.

67. On relinquishing his charge in Kuwait, he proceeded on leave, He then made a request for posting in Calcutta which was not accepted. He was, however, advised to report at Delhi vide office order dated 27th June, 1979. In his letter dated 6-8-1979, Shri Basak requested that he be released from the service of the Company as his request for posting at Calcutta was not acceded to. He has never attended office after expiry of leave. He has since filed a suit on 26-8-80 against EPI for reinstatement which is pending in Calcutta High Court.

68. Asked about the reasons for filing a suit against the company for reinstatement by Shri Basak the representative of EPI stated that according to his writ, he was in the service of the company and therefore he should be taken back. But it was not really so because he was unauthorisedly absenting himself.

69. The Committee enquired the reasons for not accepting his resignation. The witness stated that there were certain charges against him relating to his posting at Kuwait. These were:

"In the case of one of the Contractors, engaged on 35 Brigade Camp Project Works, certain cash payments (instead of by cheque) were released to the extent of KD 19,805.450 on different dates. It was given to understand that these payments were released on the basis of verbal instructions or on special instructions in writing by him to the officials posted at the project site.

The other charge was that the work permits were issued for labour from India by the Project Office at 35 Brigade Camp for the above mentioned contractor which is a Kuwait based company. In the normal course, this contractor should have made his own arrangements for labour from Kuwait instead of EPI to make such arrangements from India. It was also gathered that against the specific number of work permits cleared by him, namely, 22, number of work permits actually issued was 55."

70. In the course of examination of the Ministry the Committee enquired as to whether there was any justification for bailing out the officer by sending somebody from the Headquarters of EPI. The

Secretary of the Ministry stated: 'I can not certainly defend it....' It is unfortunate that the man who went there and baled him out is no longer alive. There is nothing on record to indicate why this was done.

H. Tours to India of Officials

71. The DGM (Staff) of ABHP who was posted in Kuwait towards the end of 1976, resigned from his job on 10th October, 1979 and joined in Balmer Lawrie. The Committee enquired about the details of visits made by the Officer to India during 1978-79 and 1979-80. EPI in a note furnished the following information in regard to his visits.

Sl.No.	Month	Period of stay	Purpose of visit
1.	March/April 1978	From 31-3-78 to 3-5-78	In connection with Labour mobilisation matters on sick leave from 12-4-78 to 3-5-78.
2.	May 1979	From 1-3-79 to 23-3-79	To conduct interviews of ex-servicemen, to attend to certain matters connected with labour mobilisation.
3.	June 79	From 7-6-79 to 27-6-79	Sorting out problems of migration of associate workers to speed up mobilisation.

72. However, when in the course of examination of the EPI the Committee enquired the justification for the Officer's visits to India when EPI had labour mobilisation Bureau at the headquarters, the General Manager in charge of Labour Mobilisation Bureau stated: "Actually we did not request for his presence. He came on his own." Asked whether there was any problem which required his presence to sort it out, the witness stated: "I do not recall any problem." In reply to a question whether he discussed any problem when he came to India, the witness stated: "No Sir. He did not discuss any problem with me."

I. Performance Review

73. The administrative Ministries are required to held quarterly Performance Review Meetings individually with the Chief Executives of the public undertakings associating the representatives of the BPE and Planning Commission. There were, however, only four meetings held during 1977-78 on 9-11-77, 17-5-78, 30-6-79 and 4-3-80, for reviewing the performance of EPI. The meetings are

stated to have been attended by the representatives of all concerned Ministries such as the Ministry of External Affairs, Finance, Commerce etc.

74. The Committee were informed by the Secretary of the Ministry that during 1980-81 and 1981-82 they had held 7 Performance Review meetings.

75. In reply to a question regarding specific steps taken or directives given to the undertakings arising out of such meetings, the Ministry had stated that in addition to the directives given to EPI on specific matters Govt. had also conveyed their concern to the Company about the unsatisfactory progress of work in the projects overseas. It has also been advised about various deficiencies that had been noticed in its working and also about the steps to be taken by the Company internally for improving its state of affairs and performance in execution of project contracts.

76. Asked to give specific instances when such directives were given, the Committee were informed that in December 1977 while agreeing to the proposal regarding grant of a further guarantee by Government for further cash credit limit from the State Bank of India to the value of KD 1 million for the execution of Ardiya Housing Project in Kuwait, the Minister of Industry has observed on the file as follows:—

“There must be a better monitoring of this project. It seems that there has been some delay which has resulted in cash flow problems. This would presumably lead to higher costs which would be unfortunate. However, I hope that schedules are going to be maintained strictly and the slippages made up. This was our commitment when we visited Kuwait and I would like to see it honoured.”

77. Again in February, 1981 the Ministry expressed their concern over the progress of some of EPI's projects and requested that the progress achieved in toning up the internal working of the Company might be intimated to Govt. from time to time.

78. The Ministry had also stated that on the advice of the Government a purposeful reporting system had been established so that adequate information regarding the pace of progress of the projects and financial results of the contracts being executed by EPI both in India and abroad were furnished by the Company with a view to enabling the Government to review the progress of the work from

time to time. Suitable formats had been prescribed and deadlines laid down for the Company to submit quarterly progress reports on physical and financial aspects of the projects under execution. These formed the basis of various reviews undertaken by Government. The Committee enquired as to how in the absence of purposeful reporting system, was the performance of the undertaking being reviewed earlier. The Secretary of the Ministry stated that although earlier they had a format, they had a detailed exercise in September, 1981 and evolved a format for reporting the performance by all public undertakings under the Deptt. of Heavy Industry which was a better system.

PART II

CONCLUSIONS|RECOMMENDATIONS OF THE COMMITTEE

1. The EPI was established in 1970 with the objective of operating as a prime contracting company for securing industrial projects on turn key basis both in the country and outside. It, however, embarked upon very large civil construction works abroad in a big way in 1976 without developing the infrastructure necessary for it. There has been clearly mismanagement of Projects. The gainers in the process seem to be the clients, middlemen and subcontractors besides some unscrupulous officials of the company itself. The Company's accounts disclosed loss of the order of Rs. 21.05 crores during 1978-81. But for the fortuitous gain of Rs. 10.66 crores on account of foreign exchange variations, the loss would have been Rs. 31.67 crores as against the paid up capital of Rs. 88 lakhs. Further there was a net foreign exchange outgo of Rs. 41.51 crores during the last three years of the operation of the company.

2. The management of the EPI in regard to the largest contract for Ain Baghze Housing Project at Kuwait (original value Rs. 230 crores) taken up in 1976 is the most glaring example of its performance. In its eagerness to get the contract, the management entered into a totally one sided contract in favour of the clients at unworkably low rates. The loss anticipated in this project is Rs. 34.23 crores. In the case of Council of Ministers Building Project, Baghdad while the value of the tender as approved by HDBI was Rs. 53.24 crores, the company on its own reduced it to Rs. 32.85 crores in its eagerness to get what it regarded as the prestigious project. In this project the losses anticipated now are Rs. 11.02 crores.

3. Of the 19 projects each costing above Rs. 5 crores under execution, the Company has slipped up badly in adhering to time schedule and has run into a variety of difficulties. There is expected to be time over-run ranging from 11 to 40 months and a loss of Rs. 41.49 crores on the execution of these projects, leaving aside the claims of associates and the penalties imposed by the clients. In such a situation, it is anybody's guess as to what would be the magnitude

of the ultimate losses. The Committee desire that extreme care should be exercised in admitting any claim of the associates and Government should help the company in sorting out its problems with the clients abroad. The need for a crash programme to complete all the works which have been delayed cannot be over emphasised to retrieve the image of the company and to avoid further losses on account of delays.

4. Precious little was done until recently to remove the serious organisational and functional deficiencies like lack of well developed in-house capabilities to analyse and estimate projects accurately, absence of organised set up to undertake project analysis, evaluation and preparation of detailed plans and schedules and to exercise proper financial control. The Committee however note that efforts have been made to remove these deficiencies. The reorganisation of Head Quarters has been taken up and new divisions set up to look after various functions. The post of Director (International) created in 1978, which remained vacant has also been filled up. The Committee hope that the organisation will now measure up to the challenges.

5. The Board has delegated full powers to tender for and accept contracts irrespective of the value. As conceded by the Secretary during evidence, there should be greater involvement of the Board. The Committee also desire that contracts above certain value should be taken up for execution only after prior approval of the Board. There should be clear guidelines laid down by Government for public undertakings engaged in construction works, for tendering for projects including the margin normally to be included in contracts, expected rate of return on capital employed by such companies etc.

6. There had been a large number of instances where the delegated powers were exceeded in regard to award of contracts, write off of losses, giving of large gifts and donations. Whatever be the circumstances such frequent acts exceeding the authority should be avoided in future.

7. The system of award of work to sub-contractors left much to be desired. The sub-contractors were selected without inviting even limited tenders. The work was awarded in a number of cases to small contractors who did not have experience in executing big

contracts. In a number of cases, only labour contractors were engaged, the EPI having taken the responsibility for supplying material at pre-determined rates with resultant loss on account of price escalation and rejection of materials by the clients. The Committee desire that the various loopholes in awarding the work to sub-contractors should be plugged. In particular the sub-contractors should be selected on back-to-back basis on the same terms and conditions as are settled with the clients to avoid losses to the company.

8. The company has paid advances to the extent of Rs. 86.90 crores as on 31-3-1981 to the sub-contractors out of which Rs. 56.67 crores were unsecured advances. These advances have been paid in spite of the fact that EPI was under no obligation to pay these advances under the contracts entered into with the sub-contractors. The advances were paid generally without prior approval of the Board and ensuring recovery of interest. Clearly there was laxity in financial control and failure to safeguard the interests of company. The associates have been virtually using the EPI as their banker, a banker who gives unlimited accommodation. Belatedly the IDBI was approached to permit the associates to borrow money directly from banks and IDBI had agreed to lend to associates. The Committee recommend that the practice of giving unsecured advances should end forthwith and steps taken to recover the outstanding amount along with interest expeditiously from all the sub-contractors/associates and the Committee be informed.

9. In order to meet its financial requirements for overseas projects EPI had borrowed as much as Rs. 93 crores from foreign banks largely without prior approval of the General Body as required under the Companies Act. There should not have been such violations of the Companies Act under any circumstances. The IDBI while clearing foreign projects since 1975 fixes borrowing limits as well as the foreign exchange limits for each project. Committee would also like to be informed whether these limits were adhered to by EPI and if not the reasons therefor.

10. The Committee suggest that there should be a limit to the powers of the public undertakings to borrow money especially in foreign countries even with the approval of general body and any amount over that limit should be allowed to be borrowed only with the specific approval of government so that the government get a chance to examine the justification and the implications.

11. The Company had spent an amount of Rs. 4.65 crores during 1976-81 on items like sponsorship fees, entertainment, sales promotion, gifts and donations. An amount of Rs. 3.45 crores was paid as sponsorship fees for foreign projects. The Committee have been informed that generally in the Middle East a local sponsor is a legal requirement for tendering for projects. Admittedly, the company did not get much help from the sponsors. It should be ensured that due regard is paid to financial propriety and public money is not frittered away. There is therefore an imperative need to lay down some guidelines in regard to method of selection of sponsors, the type of services to be rendered by them, the extent and the manner of payment to be made to them to ensure that the company really gets the services for which large payments are made.

12. Surprisingly a sum of Rs. 6.20 lakhs has been paid as sponsorship fees for home projects also. The Committee do not approve of payment of such sponsorship fees for home projects and trust that there would be no such payments in future.

13. In addition to sponsorship fee, the Company had paid an amount of Rs. 7.27 crores largely to intermediaries out of two Funds namely, PCI-EPI common fund and EPI-Fujita fund which were kept outside the accounts of the company without any audit. The Committee are not convinced of the need for such separate funds. In ABHP in pursuance of a joint venture agreement entered into in 1976 with PCI, a Japanese Company, it was decided to keep an amount equivalent to 3.5 per cent of the contract value in a common fund for meeting agency charges and sundry expenses, a term which has not been clearly defined. The Board of Directors authorised the then Chairman and/or the General Manager (Finance) to open a bank account for this fund and to operate the same. An amount of Rs. 651.33 lakhs was spent out of the fund out of which payment of commission to three parties alone accounted for Rs. 583.79 lakhs. A sum of Rs. 1.25 crores was credited to the account of a party who was actually not an agent. Part of the payment was released even before it was due. The decision of a Committee of Directors on 27-5-1977 that the particulars might be got noted in the administrative Ministry and the Department of Economic Affairs does not appear to have been carried out. About Rs. 55,000 per month was paid for the salary and house rent for the Project Director. The Committee fail to understand the need to engage an executive on such liberal terms. In the case of EPI-Fujita common fund also created in 1977 payment to the extent of

Rs. 75.60 lakhs had been made to the agents etc., The manner of operation of these two funds clearly showed that there was scope for arbitrariness. In order to carry conviction in future at least there should be an arrangement where by the responsibility for operating such funds is shared by more than one senior executive and such funds get audited.

14. An area in which there have been not only serious lapses, and laxity of control but also malpractices is the purchases made by the EPI project authorities especially for ABHP. The report of a senior officer in 1980 who made preliminary investigation of malpractices in such purchases made startling disclosures like over-billing with margins having been paid in cash, purchases from parties whose rates were decidedly higher than the prevailing market rates, placing of orders after personal negotiations and visit to the suppliers premises as well as alleged payments of a percentage of the value of the purchases in an Indian bank account of the concerned purchase officer. He had reported that even though such undesirable activities on the part of EPI officials were brought to the notice of higher authorities, no action had been taken against the delinquent official. Another report on the purchases for an operation of the stone quarry taken on lease for ABHP also pointed out that the facts uncovered established beyond doubt financial irregularities, improprieties and perhaps collusion with the party from whom lease was obtained. Unnecessary heavy equipment and second hand machinery which did not work properly had been purchased in excess of sanction accorded by the Board. The Committee would urge that such a state of affairs should not be allowed to repeat and deterrent action should be taken against the officials found defrauding the company.

15. There have been complaints about malpractices like demanding of money by the labour agents for sending the workers abroad. In a specific complaint received by EPI in spite of the fact that involvement of some of the employees of EPI in labour mobilisation Bureau was suspected, no action was taken against them except their transfer from the Mobilisation Bureau. The Committee desire that the departmental investigations in this case which are stated to be still going on should be completed soon and action taken against the delinquent officers.

16. The Committee were also informed that the Labour Ministry had been considering the question of having a new Emigration Act,

the major thrust of which would be to control the malpractices of the agents. They desire that this should be expedited to stop exploitation of workers going abroad.

17. In one case two officers were arrested by the local police in Kuwait in a case of alleged sharing of fees settled with a local consultant firm for certain engineering services to be rendered by the firm to the company. A senior officer of the company went from the Headquarters and got them released. The management may have had its own reasons for this action but it was expected of it to make at least departmental enquiry promptly. The Committee would like to know why it was not done.

18. In another case it took about 2 years to decide to make preliminary investigation into the malpractices indulged in by a Purchase Manager in ABHP project even after the serious irregularities had been brought out in the internal audit report. The investigations established the fact that the Manager misused his official powers and resorted to certain irregular practices with a malafide intention to defraud the company. In the meantime he resigned and his whereabouts were not known. The Committee would like to know what action the Company proposes to take in the matter after tracing the whereabouts of the person.

19. It is regrettable that the officers found responsible for various lapses/malpractices were allowed to resign from EPI. The Committee are surprised at the helplessness expressed by the Secretary of the Administrative Ministry that in public sector undertakings jobs being in the nature of contract, they could not do anything if a person resigns and stops coming to duty after the expiry of the notice period. They desire that the matter should be gone into by the BPE and suitable safeguards evolved to ensure that the delinquent officials do not go scot free by merely resigning from their posts in public undertakings.

20. The Committee hope that in future the management would not shield any corrupt official, inspired by an exaggerated notion of preserving the company's image abroad. In the process what is sacrificed is the country's and its tax payers interest.

21. The Committee went into the purchase of mero space frames for water research centre project, Baghdad. Hindustan Steel Works Construction Ltd. (HSCL) to whom the work for the project was sub-contracted by EPI, in turn engaged a private firm. The purchase order for more space frames for the roop structure of this project was placed by the associates of the HSCL on a Dubai agent

of a German firm. The result has obviously been increase in cost and sharing of the margins by both the Dubai agent and the associates. The Committee see no reason why the order could not be directly placed by HSCL. The matter requires investigation to find out the margin on purchases kept by the associates of HSCL and the justification therefor for appropriate action.

22. Despite the Ministry's direction in November, 1977 to take up projects having substantial supply of equipment and less of civil works in view of greater margin on equipment, it is regrettable that there has been no appreciable shift in this direction. The Committee hope that in future greater care would be exercised and only such projects taken up for execution which would enable the company to get adequate return on capital employed and help in earning foreign exchange.

23. The Administrative Ministry does not appear to have taken the review of the performance of the Company seriously inasmuch as only 4 meetings were held during 1977—80, although according to the existing requirement 12 meetings should have been held. The performance of the Company could have been better had the performance appraisal by the Ministry been regular and meaningful.

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 April 29, 1982
 Vaisakha 9, 1904 (S)

BANSI LAL,
 Chairman,
 Committee on Public Undertakings.

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