COMMITTEE ON PUBLIC UNDERTAKINGS (1981-82)

(SEVENTH LOK SABHA)

THIRTY FIFTH REPORT

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

On

(MINISTRY OF STEEL & MINES-DEPARTMENT OF STEEL)

Presented to Lok Sabha on 2 3 MAR 1982 Laid in Rajya Sabha on 2 3 MAR 1982



LOK SABHA SECRETARIAT NEW DELHI

March, 1982/Phalguna, 1903 (Saka) Price : Re. 1.00

28.37

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Shri S. C. Gupta-Senior Financial Committee Officer.

*Ceased to be a member consequent on his appointment as Deputy Minister on 15 January, 1982.

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2. Shri R. R. Morarka—Convener	
3. Shri Harikesh Bahadur	
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7. Shri K. Ramamurthy	;
8. Shri Lal K. Advani	ţ
9. Shri Shrikant Verma	i

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INTRODUCTION

I, the Chairman. Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this 35th Report on Action Taken by Government on the recommendations contained in the 23rd Report of the Committee on Public Undertakings (Seventh Lok Sabha) on Steel Authority of India Ltd.—Import of Steel.

2. The 23rd Report of the Committee on Public Undertakings was presented to Lok Sabha on 30 April, 1981. Replies of Government to all the recommendations contained in the Report were received on 29 September, 1981 The replies of Government were considered by the Action Taken Sub-Committee of the Committee on Public Undertakings on 4 March, 1982. The Report was finally adopted by the Committee on Public Undertakings on 8 March, 1982.

3. Analysis of the Action Taken by Government on the recommendations contained in the Thirty-fifth Report of the Committee is given in the Appendix.

New DelHi;BANSI LAL,March 9, 1982Chairman,Phalguna 13, 1903 (Saka)Committee on Public Undertakings.

CHAPTER I

REPORT

The Report of the Committee deals with the action taken by Government on the recommendations contained in the Twenty-third Report (Seventh Lok Sabha) of the Committee on Public Undertakings on Steel Authority of India Ltd.—Import of Steel which was presented to Lok Sabha on 30 April, 1981.

2. Action Taken notes have been received from Government in respect of all the 7 recommendations contained in the Report. These have been categorised as follows:---

(i) Recommendations/Observations that have been accepted:

Serial Nos. 1 and 7.

(ii) Recommendations/Observations which the Committee donot desire to pursue in view of Government's replies:

Serial No. 3.

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

Serial Nos. 2, 5 and 6.

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

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Serial No. 4.

3. The Committee will now deal with the action taken by Government on some of their recommendations.

A. Guidelines for the canalising agency function Recommendation No. 2 (Paragraph 2)

4. The Committee had observed that the Import Clearance Cell of the SAIL did not appear to verify the genuineness of the users at the time of clearance before registering their demands. Further, there was not even a test check of the end-use of the imported materials. The Committee noted that instructions regarding the checks to be exercised and follow-up action to be taken by SAIL were not issued by the Administrative Department. 5. In reply, government have stated that the policy guidelines for functioning of the canalising agency are incorporated in the policy book itself and in the Handbook of Import Export Procedures published by the Department of Commerce. The Monitoring Committee under the chairmanship of Chief Controller of Imports & Exports is responsible for overseeing the functioning of the canalising agencies. Additional guidelines to canalising agencies are given by this committee as and when required.

6. Unfortunately the Committee do not get any idea whether the canalising agency, SAIL, was expected to varify the genuineness of the users and to have a test check of the end-use of the imported materials either under the Policy Book or the Handbook of Import Export Procedures or whether additional guidelines to canalising agencies given by the Monitoring Committee covered such checks and follow-up action by SAIL. They would, therefore, like the position to be verified and additional guidelines, if necessary, issued without delay.

B. Improvement to the import mechanism of SAIL. Recommendation No. 5 (Paragraph 5)

7. The Committee had pointed out that the market price of products of mini steel plants, rerollers and traders, which are outside the purview of the JPC, was not monitored by the SAIL. Since there is no check by the canalising agency, SAIL, to ensure that there is no resale of imported steel, there was possibility of the socalled 'users' profiteering, taking advantage of the higher open market price. In this connection, they had referred to the press reports regarding widespread existence of bogus users, availability of JPC categories of steel in the open market at a very high price and a huge difference between the SAIL stockyard price and the open market price, which was appropriated by the middlemen generating unaccounted money. On the whole, the Committee had received an impression that the import mechanism of SAIL was not working satisfactorily. They had, therefore, recommended that the back-to-back arrangement of imports should be critically reviewed to ascertain whether it was still relevent and if so, it should be altered in a manner that it left no room for any malpractice. They had further desired that the Import Clearance Cell should be located outside the SAIL or at least located outside the CMO of SAIL.

- 8. In reply, government have, inter-alia, stated as follows: ----
 - "It may be that in certain cases, the price of imported material under 'back to back' arrangement may be less than the open market prices. But this is true of buffer imports or, for that matter, indigenous materials also. As regards misutilisation of materials, there are enforcement agencies to take necessary action, whenever such cases come to notice. In the case of indigenous materials, it is the organisation under the Iron and Steel Controller. In the case of imported materials, it is the organisation under the Chief Controller of Imports and Exports.
 - Buffer imports have necessarily to be limited to the items for which most of the supply is from indigenous sources. The revenue implications and the availability of funds in the import equalisation fund are the major constraints in deciding buffer import. For back-to-back imports there is no such limitation. Therefore, all import cannot be under buffer scheme and back-to-back arrangements has to continue. No malpractice by the canalising agency under the back-to-back arrangements has been established so far and reported to Government. Therefore, the existing arrangement with overall supervision by the Monitoring Committee under the chairmanship of CCI&E is considered adequate."

9. The Committee need hardly point out that the price of imported materials under back-to-back arrangement being less than the open market price is not the same as the lessor import price of a buffer import. Whereas buffer stocks are sold at an equated price applicable to both indigenous and imported steel the advantage of a lessor import price in the case of back-to-back arrangement accrues to the individual importer. The Committee, therefore, feel that there need be no back-to-back import of any canalised category of steel where the international price inclusive of import duty is lower than the domestic price and that there should be buffer import instead.

10. The Committee have reason to believe that there is widespread malpractice on the part of the individual importers under the back-to-back arrangement. They, therefore, desire that adequate safeguards should be provided in the system in consultation with the Ministry of Commerce and the Monitoring Committee under the chairmanship of CCI&E. 11. The Committee regret that the reply of government is silent on the point that the Import Clearance Cell should be located outside the SAIL or at least outside the CMO of the SAIL. The Committee, therefore, are constrained to reiterate that the Import Clearance Cell should be made independent of the CMO.

C. Direct import of canalised items

Recommendation No. 6 (Paragraph 6)

12. Taking note of a decision to allow individual users to directly import 1.5 lakh tonnes of HR sheets/coils on 'no objection certificates' obtained from the SAIL and apprehending the possibility of malpractice in allowing such large-scale direct imports, the Committee had felt that normally the import of a canalised item should be only through the canalising agency and in exceptional cases if direct imports were allowed, sufficient precautions should be taken to see that there were no malpractices.

13. In reply, government have stated as follows:

"There are a large number of items which are not canalised for import at all. The cases, where No Objection Certificates (NOC) are issued by a canalising agency, thus enabling the parties to import direct are on the same footing as the cases of those items which are not canalised at all. The possibility of malpractices is no greater in respect of the NOC cases than in the cases of items which are not canalised at all. The Import policy recognises that there may be circumstances where direct import may have to be made even of canalised items and provision exists for allowing this where circumstances warrant."

14. The Committee would reiterate that in exceptional cases if direct imports of a canalised items are allowed, sufficient precautions should be taken to see that there are no malpractices, as the very purpose of canalising of certain items is to obviate malpractices in imports possible on such items.

CHAPTER II

- 3

RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation (Sexial No. 1, Paragraph 1)

In order to meet the gap between the demand and indigenous supply, large quantities of iron and steel are allowed to be imported. The imports are mostly made by SAIL. Certain categories are also directly allowed to be imported by the actual users. The imports by SAIL are under (i) buffer and (ii) back-to-back schemes. The total imports by the SAIL are of the order of about 550 crores per annum. The buffer imports introduced in 1978-79 are duty-free and are pooled together with the domestic production for sale at a uniform stockyard price as per the JPC allocation. The SAIL is the canalising agency for imports of the categories of iron and steel not allowed to be imported direct by the users. These imports are made under the back-to-back arrangement, which was introduced long ago (1970). The materials imported under this arrangement are sold to the users on the high seas at the same price at which each import order is finalised and a service charge of 4 per cent of the value is recovered by the SAIL. The Committee's examination of the imports and allocation thereof among the users revealed a number of shortcomings.

Reply of the Government

SAIL is the canalising agency for import of all canalised items of steel other than stainless/heat resisting steel plates|sheets|strips' coils. Back-to-back arrangement is a working arrangement of the canalising agency.

> [Department of Steel O.M. No. SC-DIIB-14(1)/81 dated 28th September, 1981]

Recommendation (Serial No. 7, Paragraph 7)

In the past the international prices of iron and steel were higher than the SAIL stockyard prices. The Department of Steel has been taking up with the Ministry of Finance to get cent-per-cent duty exemption on the buffer imports. The cost of the domestic production having gone up now and there being a glut in the international iron and steel market resulting in price reduction, the difference between the c.i.f. price of imports and the domestic stockyard price has narrowed down since July 1990; for some categories the c.i.f. price is lower. It should be noted that the stockyard prices have been considerably raised in February 1981. In such a situation, full duty exemption was not warranted. Admittedly, the CMO of the SAIL is not sensitive to international price movements and there has been no feedback on price situation to the Department of Steel. Thus the Committee are left with an impression that there being no effective market intelligence, the relevant ingredient for decision making is conspicuous by its absence. The Committee desire that this lacuna should be removed and the scheme of duty exemption reviewed forthwith.

Reply of the Government

The recommendations of the Committee have been noted. SAIL have made arrangements to collect such informations on international prices as are relevant to the needs of Central Marketing Organisation (CMO) in the context of its functioning for import of steel. Though the difference between the prices of imported materials at consumers site and the domestic stockyard prices have narrowed down, the imported prices in most of the categories continue to rule higher. The duty structure and the need for duty concession/exemption are reviewed by the Ministry of Finance, Department of Revenue from time to time, wherever nacessary, in consultation with the Deptt. of Steel. In one such review in April 1961, the import duty on carbon steel billets, bars and rods and wire rods was increased. However, wherever situation warrant duty exemption have to be allowed.

[Department of Steel O.M. No. SC-DIIB-14(1)|81 dated 28th September, 1981]

CHAPTER III .

RECOMMENDATIONS/OBSERVATIONS WHICH THE COM-MITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT REPLIES

Recommendation (Serial No. 3, Paragraph 3)

In terms of import policy/procedure the quantities cleared for imports by the Import Clearance Cell are required to be registered with the SAIL, depositing Rs. 50,000 or 2 per cent of the c.i.f. value whichever is less. However, these formalities are not strictly observed in all cases. The Committee note that unrestricted imports of certain categories of steel have of late taken place. In some cases of imports normal purchase procedures have not been followed. Purchases have been made on private negotiations on unsolicited offers. These have given room for certain doubts regarding the bonafides of the purchases.

Reply of the Government

The canalisation procedure does not restrain the canalising agency from going in for advance import arrangements for the canalised items, if in its own assessment of the anticipated import requirements such advance planning is necessary. In fact, the foreign exchange budgeting is done on that basis and the foreign exchange releases are also made in advance.

No unrestricted imports have taken place. Imports were made in the background of substantial shortfalls in domestic production which lead to large unsatisfied demands. By and large, SAIL has been following the limited tendering procedure for purchases. In isolated cases commercial considerations and the need to break the cartel formed by foreign suppliers, made SAIL favour departure from tendering procedures. That cases may arise where negotiations may be justified has been recognised and approved by the SAIL Board subsequently. One of the purposes of canalisation is to secure favourable prices for imports; and fiexbility of procedures particularly in face of cartels, is essential to achieve this purpose. In the present case the orders of H.R. Coils were placed at prices lower than those secured by SAIL on earlier or later tenders.

> [Department of Steel O.M. No. SC-DIIB-14(1)/81 dated 28th September, 1981]

CHAPTER IV

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

Recommendation (Serial No. 2, Paragraph 2)

The imports are subject to a foreign exchange ceiling. The category-wise quantum of imports under the buffer scheme is settled by Government in view of the duty exemption of such imports. However, the allocation of imports under the back-to-back arrangement is left entirely to the SAIL. There are no policy guidelines in this regard issued by the Government to the SAIL. An Import Clearance Cell is located in the SAIL itself. The users desiring imports through SAIL under this arrangement have to get the clearance of the Import Clearance Cell before registering their demands. The Cell did not appear to verify the genuineness of the users. There was not even a test check of the enduse of the imported materials. It is, therefore, surprising that the Administrative Department did not consider it necessary all these years to issue any, instruction regarding the checks to be exercised and follow-up action to be taken by the SAIL.

Beply of the Government

The foreign exchange ceiling can be revised upward by allotment of additional foreign exchange as and when required by the canalising agency. The Import Policy itself does not place any limit on the quantities which can be imported in respect of canalised items. The policy guidelines for functioning of the canalising agency are incorporated in the policy book itself and in the Hand Book of Import-Export procedures published by the Deptt. of Commerce. The canalisation function is performed by SAIL by virtue of powers vested in it under the import trade control policy/procedure announced under Import Trade Control Act|Orders. These procedures do not empower administrative ministry to issue additional instructions/guidelines to the canalising agency for performing its function in the canalisation field. The Monitoring Committee under the Chairmanship of Chief Controller of Imports & Exports (CCI&E) is responsible for over-seeing the functioning of the canalising agencies. Additional guidelines to Canalising Agencies are given by this Committee as and when required.

[Department of Steel O.M. No. SC-DIIB-14(1)/81 dated 28th September, 1981]

Comments of the Committee

(Please see Paragraph 6 of Chapter I of the Report).

Recommendation (Serial No. 5, Paragraph 5)

The users getting imported steel under the back-to-back arrangement undoubtedly get an advantage, when a comparison is made of the landed cost with the open market price in the country. The market price of products of mini steel plants, rerollers and traders, which are outside the purview of the JPC, is not monitored by the SAIL. A perusal of open market prices quoted by the 'Economic Times' in the recent past shows that these were much higher than the landed cost of imports under the back-to-back arrangement. Since there is no check by the canalising agency, SAIL to ensure that there is no resale of imported steel there is possibility of socalled 'users' profiteering, taking advantage of the higher open market price. In fact, according to reports appearing in the Press there is widespread existence of bogus users, availability of JPC categories of steel in the open market at a very high price and a huge difference between the SAIL stockyard price and the open market price, which is appropriated by the middlemen, generating unaccounted money. On the whole, the Committee have received an impression that the import mechanism of SAIL, is not working satisfactorily. The Committee, therefore, recommend that the back-to-back arrangement of imports should be critically reviewed to ascertain whether this arrangement is still relevant and whether the entire imports could be made under the buffer scheme. If it is found to be relevant it should be altered in a manner that it leaves no room for any malpractice. Detailed guidelines should also be issued to the SAIL inter alia laying down the nature of checks to be exercised and the criteria for allocation of imports. In this connection the Committee also desire that the Import Clearance cell should be located outside the SAIL, preferably in the Department of Steel. If it is not possible it should be at least located outside the CMO of the SAIL, say, in the head office of the SAIL. The organisational strucutre and the delegation of powers in the CMO of the SAIL should also be rationalised. Except in very exceptional cases imports should be made only on the basis of tenders. The Committee further recommend that on the basis of a thorough review of the present import mechanism in the SAIL, Government should

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also consider seriously the basic issue whether a production enterprise, which the SAIL is, should at all be entrusted with the responsibility of canalisation of imports.

Reply of the Government

"Back-to-back" arrangement is not something new or special for steel imports this is the normal way canalised imports are done. The term "back-to-back" is used merely to distinguish it from "buffer" imports. It is "buffer" import which has been specially devised and where the imported material is issued to actual users at the same price as indigenous material.

It may be that in certain cases, the price of imported material under "back to back" arrangement may be less than the open market prices. But this is true of buffer imports or, for that matter, indigenous materials also. As regards misutilisation of materials, there are enforcement agencies to take necessary action, whenever such cases come to notice. In the case of indigenous materials, it is the organisation under the Iron and Steel Controller. In the case of imported materials, it is the organisation under the Chief Controller of Imports and Exports (CCI&E).

Buffer imports have necessarily to be limited to the items for which most of the supply is from indigenous sources. The revenue implications and the availability of funds in the import equalisation fund are the major constraints in deciding buffer import. For back to back imports there is no such limitation. Therefore, all import cannot be under buffer scheme and back to back arrangements has to continue. No malpractice by the canalising agency under the back to back arrangements has been established so far and reported to Government. Therefore, the existing arrangements with overall supervision by the monitoring Committee under the Chairmanship of CCI&E is considered adequate.

The import policy itself provides for registration of the requirements and supplies according to phased requirements of the users. Therefore, a separate set of guidelines from Government for operation of canalised system is not considered necessary. Such guidelines may result in duplications.

The decision regarding canalisation of import of carbon steel items in the canalised list was taken on 28-2-1970 in a joint meeting between the Ministers of Foreign Trade and Steel & Mines. The canalising agency for carbon steel at that time was Hindustan Steel

Ltd. (HEL). The decision for canalising these items through HSL at that time was based inter-alia on the grounds that it had intimate knowledge of requirements of the steel user industry, the capacity of various steel producers abroad, the net-work of stockyard all over the country to facilitate easy distribution etc. In 1974, when SAIL International Ltd. (SAIL) was constituted the canalising functioning of HSL was transferred to it. That organisation specialised in marketing of steel products in the country and abroad. With the re-organisation of SAIL in 1978, SAIL ceased to be separate company and SAIL itself became the canalising agency. With its long experience in steel imports and marketing. Central Marketing Organisation (CMO) of SAIL is best suited to handle the bulk import of canalised items, not only the carbon steel but stainless steel as well.

This Department being responsible for development of steel industry within the country particularly in the organised sector and meeting the steel requirements of the nation, a change of canalising agency to some other organisation like the Minerals & Metals Trading Corporation of India Ltd. (MMTC) may give rise to coordination problems as had been evidenced in the past, even in the matter of import of stainless steel plates, sheets and strips by MMTC. If administratively Department of Steel is to remain responsible for feeding the economy with adequate supply of steel, it is essential that the canalising agency remains one of the public sector units administered by the Department of Steel. At present there is no other undertaking under the Department more appropriate than SAIL (CMO).

SAIL has, to improve the operational arrangements, shifted the imports division of CMO to Calcutta. It has also appointed a Director (Marketing) to head CMO, SAIL. Guidelines for import of steel have been laid down by them and they are being followed in day today activities of import division. The delegation of powers have been reviewed and powers have been delegated to officers at appropriate levels to facilitate quicker decision with the framework of the guidelines.

> [Department of Steel O.M. No. SC-DIIB-14(1)/81 dated 28th September, 1981]

Comments of the Committee

(Please see Paragraphs 9 to 11 of Chapter I of the Report)

Recommendation (Serial No. 6) Paragraph 6)

Though the Secretary, Department of Steel, took the position initially that the imports were canalised through SAIL in view of bulking advantage, he conceded that the idea was to obviate malpractices in imports. The Committee note that a decision has been taken recently to allow individual users to directly import 1.5 lakh tonnes of HR sheets/coils on 'no objection certificates' obtained from the SAIL. The Committee apprehend the possibility of malpractice in allowing such large-scale direct imports. They feel that normally the import should be only through the canalising agency and in exceptional cases if direct imports are allowed sufficient precautions should be taken to see that there are no malpractices. It is unfortunate that reportedly the SAIL could not make the imports expeditiously and direct imports of this order had to be allowed which also entailed a loss of commission of about Rs. 75 lakhs for the SAIL.

Reply of the Government

There are a large number of items which are not canalised for import at all. The cases, where No Objection Certificates (NOC) are issued by a canalising agency, thus enabling the parties to import direct are on the same footing as the cases of those items which are not canalised at all. The possibility of malpractices is no greater in respect of the NOC cases than in the cases of items which are not canalised at all. The Import Policy recognises that there may be circumstances where direct import may have to be made even of canalised items and provision exists for allowing this where circumstances warrant.

> [Department of Steel O.M. No. SC-DTHB-14(1)/81 dated 28th September, 1981]

Comments of the Committee

. (Please see Paragraph 14 of the Chapter I of the Report).

CHAPTER V

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

Recommendation (Serial No. 4) (Paragraph 4)

1 12

The Committee went into a specific case of imports of 25,000 tunnes of HR sheets in coils from a French firm through an Indian agent. The relevant purchase order was placed on the firm on 22 October, 1980. The Chairman, SAIL informed the Committee that he was personally against purchases on private negotiations and that he had to accord post-facto approval as he thought the order had already been placed. However, it turned out that only a letter of intent subject to reconfirmation had been issued before the orders of the Chairman were taken. There was another case of import of 5018 tonnes of galvanised sheets from a South Korean firm where no approval of the chairman was sought for. There purchases were preceded by significant changes of officers dealing with imports in the C. M. O. of SAIL. These changes were made by the Commercial Director, SAIL, who, according to the Chairman, SAIL, had no authority to make such changes. Though the Commercial Director is the top Executive for the C. M. O., he had sub-delegated all his powers in regard to imports to subordinate officers even before the powers were formally delegated to him by the Chairman, SAIL. The import from the French firm, which was to be under the back-to-back arrangement, was subsequently converted mostly as buffer import. The circumstantial evidences that mainly led the Committee to entertain some doubts about the bonafides of the purchase from the French firm were (i) undue secrecy and haste in negotiation, (ii) easy accessibility of the officials concerned at a place other than their headquarters to the Indian agent of the French firm (iii) failure to clarify to the Chairman, SAIL that firm order had not been placed when "ex-post-facto" sanction was given by him, and (iv) visit of the official concerned to the French firm in Paris after placement of order, though the Committee were informed that no foreign visit had taken place in connection with imports. The Committee did not go into the purchase from the South Korean firm in such detail. However, they understand that both the cases

of purchases from the French firm as well as from the Korean firm, are under investigation by the C.B.I. The Committee would await the outcome.

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Reply of the Government

The proposal for Chairman SIL's approval mentioned that the order was subject to reconfirmation. On this approval was accorded by Chairman. Only thereafter was this order reconfirmed.

The Chairman has also given reasons indicating why he considered the direct negotiations justified even though he was according "post facto" approval. Regarding other observations, the matter is being looked into.

[Department of Steel O.M.N. SC-DIIB-14(1) 81 dated 28th September, 1981]

BANSI LAL Chairman Committee on public Undertakings

New DelHI; March 9, 1982 Phalguna 18, 1903 (Saka)

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APPENDIX

(Vide Para 3 of Introduction)

Analysis of Action Taken by Government on the recommendation contained in the Twenty Third Report of the Committee on Public Undertakings.

(Seventh Lok Sabha) .

I.	Total number of recommendations made	7
11.	Recommendations that have been accepted by Government (vide recommendations at S.Nos. 1 and 7)	2
	Percentage to total	29%
III.	Recommendations which the Committee do not desire to pursue in view of Government reply (vide recommendation at S. No. 3) .	1
	Percentage to total	14%
IV.	Recommendations in respect of which replies of Government have not been accepted by the Committee (vide recommendations at S. Nos. 2, 5 and 6)	3
	Percentage to total	43%
v	. Recommendations in respect of which replice of Government are still awaited.	
	(Vide recommendation at S. No. 4)	1
	Percentage to total	14%

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