

**COMMITTEE ON PUBLIC  
UNDERTAKINGS  
(1972-73)**

(FIFTH LOK SABHA)

**THIRTY-THIRD REPORT**

**Action taken by Government on the recommendations  
contained in the Sixty-Sixth Report of the Committee  
on Public Undertakings (Fourth Lok Sabha)**

INDIAN OIL CORPORATION (PIPELINES DIVISION)

(Ministry of Petroleum & Chemicals)



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IN THEIR 66TH REPORT ON INDIAN OIL CORPORATION  
(PIPELINES DIVISION)

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# CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE . . . . .	(iii)
COMPOSITION OF THE STUDY GROUP . . . . .	(iv)
INTRODUCTION . . . . .	(v)
REPORT . . . . .	1
A. Induction of Bechtels . . . . .	1
B. Detailed Project Report . . . . .	13
C. Global Tenders . . . . .	15
D. Shortfall in the design capacity of Haldia-Barauni Pipeline . . . . .	20
E. Loss of documents . . . . .	23
F. Record of Negotiations . . . . .	26
G. Managing Director's Mode of Functioning . . . . .	27
H. Agreement with Snam . . . . .	33
I. Compensation from Snam . . . . .	34
J. Legal responsibility of Snam and Bechtels . . . . .	36
K. Absence of Government Sanction . . . . .	38
L. Transfer of Koyali-Ahmedabad Pipeline . . . . .	41
M. Escalation in Estimates . . . . .	42
N. Delays in completion of Pipelines . . . . .	49
O. Re-alignment . . . . .	51
P. Central Vigilance Commissioner . . . . .	59
Q. Conclusion . . . . .	64

## APPENDICES

I. Ministry of Petroleum and Chemicals Resolution No. 28 (11)/70-OR dt. 22-8-70. Appointment of Commission and its Terms of Reference . . . . .	70
II. Ministry of Finance O. M. No. 2 (75)/68-BPE/(GM) dt. 23-4-68 regarding Procedure for scrutiny of project proposals . . . . .	73
III. Ministry of Finance O. M. No. 3 (6)/66/70-BPE (IC) dt. 24-7-71 regarding maintenance of contemporaneous record of negotiations leading to con- clusion of agreements/contracts . . . . .	78
IV. List of Contracts . . . . .	83

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<u>Line</u>	<u>For</u>	<u>Read</u>
19	<u>Insert</u> the words 'A copy of the Preliminary' before the words 'Report of'	
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## CONTENTS

	Page
COMPOSITION OF THE COMMITTEE . . . . .	(iii)
COMPOSITION OF THE STUDY GROUP . . . . .	(iv)
INTRODUCTION . . . . .	(vi)
REPORT . . . . .	1
A. Induction of Bechtels . . . . .	1
B. Detailed Project Report . . . . .	13
C. Global Tenders . . . . .	15
D. Shortfall in the design capacity of Haldia-Barauni Pipeline . . . . .	20
E. Loss of documents . . . . .	23
F. Record of Negotiations . . . . .	26
G. Managing Director's Mode of Functioning . . . . .	27
H. Agreement with Snam . . . . .	33
I. Compensation from Snam . . . . .	34
J. Legal responsibility of Snam and Bechtels . . . . .	36
K. Absence of Government Sanction . . . . .	38
L. Transfer of Koyali-Ahmedabad Pipeline . . . . .	41
M. Escalation in Estimates . . . . .	42
N. Delays in completion of Pipelines . . . . .	49
O. Re-alignment . . . . .	51
P. Central Vigilance Commissioner . . . . .	59
Q. Conclusion . . . . .	64

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II. Ministry of Finance O. M. No. 2 (75)/68-BPE/(GM) dt. 23-4-68 regarding Procedure for scrutiny of project proposals . . . . .	73
III. Ministry of Finance O. M. No. 3 (6)/66/70-BPE (IC) dt. 24-7-71 regarding maintenance of contemporaneous record of negotiations leading to conclusion of agreements/contracts . . . . .	78
IV. List of Contracts . . . . .	83

	<b>PAGE</b>
V. Letter dated 31-5-1961 from the Engineers India Ltd., to the Ministry of Petroleum and Chemicals and Mines and Metals . . . .	84
VI. Copy of the Advice tendered by Shri A. A. Peerbhoy . . . .	87
VII. Copy of Transfer Deed in respect of Koyali-Ahmedabad Pipeline . . . .	92
VIII. Revision of project estimates public undertakings . . . .	110
IX. Planning and Construction of public sector projects . . . .	118
X. Ministry of Petroleum and Chemicals O. M. No. 15(85)/70-OR dated 23-3-71 regarding Re-alignment/rectification of the section of the Haldia-Barauni Pipeline passing over the Coal Bearing areas—Appointment of an Expert Group to enquire into . . . .	123
XI. Note from Department of Personnel regarding disciplinary proceedings against Shri P. R. Nayak (Retd.) . . . .	130



**COMMITTEE ON PUBLIC UNDERTAKINGS**

(1972-73)

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**Shrimati Subhadra Joshi**

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3. Shri G. Bhuvarahan
4. Dr. Kailas
5. Shri Murasoli Maran
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11. Shri Lal K. Advani
12. Shri M. Kamalanath
13. Shri U. N. Mahida
- \*14. Chaudhary A. Mohammad
15. Shri D. P. Singh

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\*Died on the 7th February, 1973.

## **STUDY GROUP I ON OIL, DRUGS AND PHARMACEUTICALS**

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**2. Shri Ranen Sen—*Alternate Convener***

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**5. Dr. Mahipatray Mehta—*Member***

**6. Shri U. N. Mahida—*Member***

**7. Shri G. Bhuvarahan—*Member***

## INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this Thirty-third Report on Action Taken by Government on the recommendations contained in the Sixty-sixth Report of the Committee on Public Undertakings (Fourth Lok Sabha) on Indian Oil Corporation (Pipelines Division).

2. The Sixty-sixth Report of the Committee on Public Undertakings (Fourth Lok Sabha) on Indian Oil Corporation (Pipelines Division) was presented to the Lok Sabha on the 30th April, 1970. The replies of Government to all the 37 recommendations contained in the Report were received on the 1st November, 1970. These replies were considered by the Committee on the 14th September, 1971.

3. Further information sought in respect of certain points arising out of the replies furnished by Government was received in batches between November, 1971 and November, 1972.

4. The replies of Government to the recommendations were considered by the Committee on Public Undertakings at their sittings held on 14th September, 1971, 1st December, 1972, 22nd and 23rd January, 1973, 1st and 2nd February, 1973.

5. The Report was considered by the Committee at their sitting held on the 4th April, 1973 and the Chairman was authorised to finalise the Report on the basis of the decisions of the Committee and present it to Parliament.

NEW DELHI;

April 10, 1973.

Chaitra 20, 1895 (Saka).

SUBHADRA JOSHI,

*Chairman*

*Committee on Public Undertaking.*

## REPORT

A. INDUCTION OF BECHTELS (Paras 2.29 to 2.42, 3.66, 3.69 to 3.75, 3.105 to 3.106, 9.1 to 9.8 of 66th Report (4th L.S.) on I.O.C. (Pipelines))

### Recommendations (Serial Nos. 1, 2, 3, 4, 6, 7, 16 and 27)

The Committee dealt with the matter of induction of Bechtels, payments made to them, inept technical advice rendered by them and undue favours shown to Bechtels at every stage of the two pipeline projects in their recommendation Nos. 1, 2, 3, 4, 6, 7, 16 and 27.

These Recommendations together with replies of Government thereto are reproduced below:—

#### Recommendation (Sl. No. 1)

"The Committee find that there were three reasons mentioned at the meeting of the Board of Directors of Indian Refineries Ltd. on 3rd July 1961, for preferring Bechtels to ENI of Italy and John Brown of U.K., for the preparation of the Project Report.

First that Bechtels had worked in the area in 1955. Secondly that Bechtels would prepare the Project Report in about 4 to 6 weeks and finally they might be able to "persuade the World Bank or other agencies in the USA on the question of financing the foreign exchange component of the project." The Board of Directors had however, clearly directed that Bechtels might be entrusted with the work "if the ENI credit is not forthcoming."

The Committee would, therefore, like to take up first the non-availability of ENI credit. The Minutes of the meeting of the Board of Directors held on 10th October, 1961, show that the managing Director reported that "from his discussions with the Government, we understood that credit from ENI for this study and Project is not available."

In this connection, the Committee would like to recall that the agreement with the ENI for foreign credit was concluded by the Government of India in August 1961, and it was Government's intention to utilise it for Pipeline Project also. It stands to reason that if the credit was available for the Project costing over Rs. 6 crores as a whole, it should have been possible to accommodate an expenditure of a few lakhs which would have been incurred on the preparation of the Project Report.

Further, it was obviously in the interest of Snam Saipem (belonging to ENI Group) to prepare the Project Report, which would have greatly facilitated the execution of the Project by them.

Even if for the sake of argument, it is assumed that ENI credit was not available for preparation of the Project Report, the Committee are unable to understand how Bechtels could be singled out for being entrusted with this work, specially when it is on record in the Minutes of the meeting of the Board of Directors of 3rd July, 1961, that "there were three parties in view namely ENI of Italy, Bechtels Corporation of the USA and John Brown of UK." If ENI credit was not available, it only meant that ENI might not be given the projects straightway in preference to others; but how could it be construed as doing away with the need for calling of offers from experienced undertakings of national and international standing which were evincing keen interest in the Project?

The Committee are not inclined to give much weight to the experience claimed by Bechtels as it related to 1955 (6 years earlier). If experience was the criteria, the Committee could understand the work of preparation of the Project Report being entrusted to B.O.C., who had earlier prepared preliminary Project Report for this Pipeline and were actively associated about this time as technical supervisors with a bigger pipeline project for carrying crude oil from Naharkatiya to Barauni, and who had also experience of dealing with Snam, the contractors who were ultimately entrusted with the execution of the Project.

Another advantage claimed for Bechtels is that they would "prepare a Report in about 4 to 6 weeks". The Committee are not able to attach much importance to this claim as in actual fact the time taken for concluding the agreement with Bechtels for preparing the Project Report after their name was first mooted in the Board meeting of 3rd July, 1961, amounted to nearly 5 months (the agreement was concluded only in December, 1961)."

(Paragraphs 2.29 to 2.33)

### **Reply of Government**

The matters relating to the induction of Bechtels as Design Engineers and overall Supervisors in Gauhati-Siliguri Pipeline have been referred to the Commission of Inquiry for a thorough probe *vide* para (a) (ii) of Appendix I (reproduced below) :—

*Terms of Reference*

“(a) (ii) was the induction of Bechtels into the aforesaid projects mala-fide, and were they shown any undue favour by officials of the IRL/Government.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

**Recommendation (Sl. No. 2)**

“As regards the claim that Bechtels might be able to “persuade the World Bank or other agencies in the USA on the question of financing of the foreign exchange component of the Project”, the Committee need only point out that in actual fact the Corporation/Government decided not to call for global tenders, and entrusted the Project to Snam Saipem (belonging to ENI group) to be financed from ENI credit, agreement for which had already been concluded in August, 1961 *i.e.* four months before Bechtels were formally commissioned for the Project Report.

The Committee are unable to accept that ENI credit was not available for the Project study in October, 1961, for they find that Government had informed the Indian Refineries Ltd. on 17th October, 1961, that the Project Report for Barauni-Calcutta, Barauni-Delhi a bigger pipeline had been entrusted to Snam Progetti (belonging to ENI group). If, therefore, the Project study of a bigger pipeline project could be entrusted to Snam Progetti (belonging to ENI group) by Government at that time—October, 1961—the Committee are unable to understand how Indian Refineries Ltd./Government could persuade themselves to entrust the Project study of Gauhati-Siliguri pipeline to Bechtels to the exclusion of others. As the induction of Bechtels in the pipeline project on unfounded grounds has led to several complications later in this and Haldia-Barauni-Kanpur pipeline project, the Committee cannot but take a grave view of this failure of IRL/Government to nip the mischief in the bud.” (Paragraph 2.34 to 2.35)

**Reply of Government**

The induction of Bechtels in the Gauhati-Siliguri Pipeline Project has been referred to the Commission of Inquiry for a thorough probe in the matter *vide* para (a) (ii) of Appendix I (reproduced below):—

*Term of Reference*

“(a) (ii) was the induction of Bechtels into the aforesaid projects mala-fide, and were they shown any under favour by officials of the IRL/Government.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

### Recommendation (Sl. No. 3)

"The Committee are even more puzzled by the decision of IRL/Government to appoint Bechtels as design engineers and overall supervisors for this pipeline and pay Bechtels as much as Rs. 51.26 lakhs in rupees (includes Rs. 22.48 lakhs as Income Tax liability) and 2,86 lakhs dollars (Rs. 13.63 lakhs).

The Committee note that one of the Directors of IRL had pointed out at the Board meeting held on 28th May, 1962, that "it might be useful to call for tenders for engineering and management services in order to verify the reasonableness of the offer made by Bechtel Corporation." The Committee are unable to appreciate how this reasonable proposition was talked out of hand on the ground that "Bechtel Corporation's offer compared quite favourably with similar jobs executed elsewhere and offers received for other jobs", and "the calling of tenders at that stage would merely delay the Project". It is also on record that the Board noted "this clarification" and observed that "a decision had already been taken by the Sub-Committee of Directors empowered to deal with the matter."

The Committee are unable to appreciate how the Board of Directors could allow an issue which involved payment of nearly half a crore of rupees to be peremptorily taken out of their purview and considered judgment merely because they had asked a Sub-Committee of their own Directors to go into the matter.

The Committee are baffled how a part of a directing body could dictate in this manner to the parent body to the detriment of public interest.

Moreover, the claim that the offer of Bechtels "compared quite favourably with similar jobs executed elsewhere and offers received for other jobs" is open to question. It is on record that BOC pipelines fees for Naharkatiya-Barauni pipeline amounted to about 7 per cent of the capital cost. At the relevant time, the estimate of capital cost of Gauhati-Siliguri Pipeline was Rs. 6 crores while the amount paid to Bechtels has worked out to Rs. 51.26 lakhs in rupees (Includes Rs. 22.48 lakhs as Income Tax liability) and 2.86 lakhs in dollars (Rs. 13.63 lakhs) which would work out to 10.81 per cent, a much higher percentage than 7 per cent.

The Committee would also like to point out that Government sanction (*vide* letter No. 31/6/62-ONG, dated the 5th October, 1962) was for the IRL proposal to entrust Bechtels with "the design engineering and the management of the Project at a total cost of Rs. 41.20 lakhs including foreign exchange cost of Rs. 18.21 lakhs." The Committee would like Government to verify whether payment in excess of their sanction was made, and if so, by whom and on what authority and fix responsibility for the lapse.

(Paragraph No. 2.36 to 2.40)

### Reply of Government

The issue whether any payment to Bechtels as, Design Engineers and overall Supervisors in Gauhati-Siliguri Pipeline was made in excess of the amount sanctioned by Government has been referred to the Commission of Inquiry for a thorough probe in the matter *vide* para (a) (i) of Appendix I (reproduced below):—

#### *Term of Reference*

“(a) (i) to determine whether any payment to Bechtels (as Design Engineers and Overall Supervisors in Gauhati-Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment justified?”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(70)/70-OR, dated 1st November, 1970].

#### **Recommendation (Sl. No. 4)**

“To conclude, the Committee are not able to appreciate the reasons why Indian Refineries Ltd./Government did not invite offers for undertaking engineering and supervision work from several well-known experienced parties of national and international standing before favouring Bechtels with the assignments on rates which proved to be far from competitive and without any commensurate benefit.

The Committee are also not able to appreciate why Indian Refineries Ltd./Government did not call for global tenders for execution of the Project specially when the ENI credit which was ultimately availed of for the Project contained a specific provision to the effect that IRL could advertise and invite global tenders.” While the Committee appreciate that Snam Saipem had the experience and knowledge of terrain, it would not have been unreasonable to expect that Snam Saipem would have offered even more competitive rates to gain the new contract in the face of keen competition by firms of national and international standing who were openly evincing keen interest in the work. The Committee need hardly point out that ENI group of companies had already their machinery, equipment and men in the country for execution of the Naharkatiya-Barauni crude pipeline and it was obviously in their interest to gain another pipeline contract. The Committee are of the view that had global tenders been invited nothing would have been lost, while there is every reason to believe that IRL would have considerably gained by inducing the firms to give most competitive offers in respect of cost and accommodation for foreign-exchange component of the project.

(Paragraph No. 2.41 to 2.42)



### Reply of Government

(a) The matter relating to the induction of Bechtels in G.S. Pipelines have been referred to the Commission of Inquiry for a thorough enquiry, vide para (a) (ii) of Appendix I (reproduced below):—

#### Term of Reference

“(a) (ii) was the induction of Bechtels into the aforesaid projects malafide, and were they shown any undue favour by officials of the IRL/Government.”

(b) The Commission of Inquiry has also been entrusted to investigate the circumstances in which the IRL/Government awarded the construction contracts for Gauhati-Siliguri Pipeline to Snam-Saipem on negotiated basis without calling for global tenders vide para (g) of Appendix I (reproduced below):—

(g) “to investigate the circumstances under which IRL/Government awarded the construction contracts for Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipelines to Snam-Saipem on negotiated basis without calling for global tenders.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

#### Recommendation (Sl. No. 6)

“The Committee are not able to appreciate why it was necessary to bring Bechtels on the scene when they had already commissioned Snam-Progetti both for the preliminary Project Report and the Executive Project Report.

As regards the plea that it was found possible to effect a saving of nearly Rs. 3 crores by associating Bechtels in finalising the design and specifications for IRL., the Committee would like to quote the considered view of the Director, incharge of Indian Oil Corporation who has gone on record on 13th June, 1967 to the following effect:—

“The advice given by Bechtels appears to have been based on false premises because an economy brought about by reducing capacity and by eliminating various facilities . . . . . is not a real economy, but an illusory one.”

(Paragraph Nos. 3.66 and 3.67)

### Reply of Government

The matter relating to the induction of Bechtels has been referred to the Commission of Inquiry for a thorough probe *vide para (a) (ii) of Appendix I (reproduced below):—*

#### *Term of Reference*

“(a) (ii) was the induction of Bechtels into the aforesaid projects malafide, and were they shown any undue favour by officials of the IRL/Government”.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

#### **Recommendation (Sl. No. 7)**

“It is evident from the above that the agreement with Bechtels for payment is not related to the progress of the work, instead it was made time-bound, with the result that Bechtels managed to clear the scene after drawing more than a crore of rupees as fees and charges while the project was still in mid-stream as it was completed only in August, 1966 and commissioned on 26th September, 1966.

It would be pertinent in this connection to recall that while agreement with Bechtels as design monitors and project managers was concluded only in March/April, 1964, the Indian Refineries Ltd., had started making payments to them as early as December, 1963 without waiting for Government's approval to the agreement on the plea “work done, payment made.” The Committee would have very much appreciated if the hypothesis had been applied by Government to ensure that payment was only made after the work was completed. The Committee cannot help the conclusion that the Indian Refineries Ltd., showed more concern for Bechtels interests than for the project and in fact so arranged the events that Bechtels became a reality as design monitors and project managers even before the approval of Government had been taken thereto.

The Committee are also not convinced that the Pipeline Division of I.O.C. who looked after the crucial phase of completion and commissioning of the pipeline project after Bechtels cleared off the scene on 30th June, 1965 could not be entrusted with the responsibility of project managers and design managers from the very inception.

The Committee have dealt at length with the role of Bechtels in advising Indian Refineries Ltd. to stick to the alignment of the pipelines through coal-fields in Chapter VII from which it would be seen that Bechtels shifted their ground in crucial matters of alignment more than once.

Later in this Chapter the Committee have pointed out how the actual throughput capacity of Haldia-Barauni pipeline for pumping crude oil has been found to be even less than 1.5 million tonnes, as compared to Government's intention of building a pipeline with 3 million tonnes capacity to match the plans for expansion of Barauni to 3 million tonnes by 1966. It is also on record that certain portions of the pipelines were found to have corroded necessitating replacement at the cost of Snam (Estimated Rs. 15 lakhs) and IOC about 4 lakhs.

The above instances are indicative of the failure of Bechtels to discharge faithfully their responsibilities as design monitors and project managers.

The Committee are convinced that the favoured treatment meted out to Bechtels and the unusual provisions in the Agreement made with them could not have been possible without the knowledge of the Undertaking and the Government both of whom should be held to account for the serious lapses to safeguard public interest. (Paragraph No. 3.69 to 3.75)."

### Reply of Government

The question of induction of Bechtels as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline and payments made to them has been referred to the Commission of Inquiry *vide* para (a) (i) and (ii) of the Appendix I (reproduced below).

### *Term of Reference*

- “(a) (i) to determine whether any payment to Bechtels (as Design Engineers and over all Supervisors in Gauhati-Siliguri Pipe lines and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment justified?
- (ii) was the induction of Bechtels into the aforesaid Projects mala-fide, and were they shown any undue favour by officials of the IRL/Government.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

### Recommendation (Serial No. 16)

"It would be pertinent to recall the conclusion of the Board of Directors of IOC after a lengthy discussion about the dealing of Bechtels. The minute of the Board's meeting held on the 26th March, 1969, *inter alia* records:

"Looking into the dealings and records of M/s. Bechtels, the Board decided that the Corporation will not have any dealings in future with the party."

The Committee need hardly point out that the Resolution of the Board of Directors of IOC is conclusive on the subject and underlines the need for a thorough investigation by Government to determine the manner and the reasons for which M/s. Bechtels were brought on to the scene, first for Gauhati-Siliguri pipeline project and later for HBK project and paid over Rs. 1.5 crores (comprising Rs. 75.46 lakhs as fees and the balance as reimbursable cost) with hardly any commensurate benefit to the Project. In fact, but for their inept technical advice at crucial stages the history of the project of HBK pipeline may well have been different. The Committee would like Government to pursue the matter to its logical conclusion and take up with all those concerned with the introduction of this party to the Pipeline projects and the undue favours which were shown to them at every stage as evidenced by the unusual provisions of the agreements.

The Committee cannot help pointing out that the then Managing Director, IRL, who was signing the agreements on behalf of IRL showed more concern for the interests of the Bechtels than for the public money he was entrusted with. (Paragraph No. 3.105 and 3.106)".

### Government's Reply

As recommended by the Committee on Public Undertakings the issues relating to the induction of Bechtels in Gauhati-Siliguri Pipelines as Design Engineers, and overall Supervisors and as Design Monitors & Project Managers, in HBK Pipelines have been referred to the Commission of Inquiry for a thorough investigations *vide* para (a) (i) (ii) (b) and (m) of Appendix I (reproduced below):—

### Terms of Reference

"(a) (i) to determine whether any payment to Bechtels (as Design Engineers and overall supervisors in Gauhati-Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment justified?

- (ii) was the induction of Bechtels into aforesaid projects mala-fide and were they shown any undue favour by officials of the IRL/ Government.
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.
- (m) generally, to report on any other matter that is relevant, in the opinion of the Commission.'

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, 1st November, 1970].

#### **Recommendation (Serial No. 27)**

"The Committee have commented in Chapters II and III in detail on the induction of Bechtels in the Pipeline Projects on unfounded grounds which have led to several complications. They are rather intrigued by the manner in which Bechtels were first introduced into the Pipeline Project by the then Managing Director of I.R.L. on three grounds, viz., that they worked in the area in 1955, that they would prepare the Project Report in about 4 to 6 weeks, and finally that they might be able to persuade the World Bank or other agencies in the U.S.A. in the question of financing the foreign exchange component of the Project. None of these considerations can hold the ground as Bechtels had worked in the area 6 years earlier from the time in question; they completed the Report not in 4 to 6 weeks but in 11 weeks and in actual fact the Corporation/Government decided not to call for global tenders, and, therefore, the question of taking the assistance of Bechtels for persuading the World Bank for financing the foreign exchange component of the Project did not arise. The Committee cannot but take note of the grave failure of the I.R.L./Government to nip the mischief in the bud.

The Committee are even more puzzled by the decision of I.R.L./Government to appoint Bechtels as design engineers and overall supervisors for Gauhati-Siliguri pipeline and pay Bechtels as much as Rs. 51.26 lakhs in rupees and 2.86 lakhs of Dollars (Rs. 13.63 lakhs), including an income-tax liability to the tune of Rs. 22.48 lakh. The Committee have also showed how the payment made to Bechtels for their services works out to 10.81 per cent of the cost of project as compared to 7 per cent which are reported to have been paid for Naharkatiya-Barauni Pipeline which was executed about the same time.

The Committee find that the Managing Director of I.R.L. was also primarily responsible for bringing Bechtels into Haldi-Barauni-Kanpur pipeline project on the ground that Bechtel Corporation could bring about "modifications and simplifications in the E.N.I. design for the project... without sacrificing safety and technical consideration so as to yield sufficient economies in Project Cost". Bechtels thus got inducted into the H.B.K. pipeline project as design monitors and project managers at a colossal charge of about Rs. 87 lakhs. Bechtels managed to clear off the scene by 30th June, 1965, by contriving an agreement which made payments to them time bound without relating it to the actual progress of work. The result was that Bechtels vanished from the scene nearly a year before the completion and commissioning of the Project. They also managed to get payments with retrospective effect on the ground that "the work done-payment made." But the same hypothesis was not stretched by Government to ensure that payment was made to Bechtels only after the work was completed. The Committee cannot help the conclusion that the I.R.L. showed more concern for Bechtels' interest than for the Project.

Bechtels played a crucial role in the discussion at Milan in July, 1963, which led to the conclusion of faulty agreement with Snampro for construction of the pipeline with capacity of even less than 2 million tonnes against the intended capacity of 3 million tonnes.

It is also on record how Bechtels changed their stand about alignment of the pipeline through the coal-field area after the pipeline had actually been laid. The Committee see no reason why Bechtels could not have referred the matter earlier say in 1963 instead of 1965 to the San Francisco office when the Indian mining consultants were unanimously of the view that the pipeline should not be laid in the coal bearing area, and why they could not suggest examination of the coal fields by an Indian expert earlier than 1965. The net result is that besides the hazards to which the pipeline has been unnecessarily exposed by laying it in the coal area, it would cost nearly Rs. 2 crores to realign the pipeline to avoid the coal fields.

As regards the claim that the introduction of Bechtels would result in economy, the Committee would like to recall the considered views of the Director-in-charge (pipelines), IOC, that the economy achieved was more illusory than real, as the facilities and capacity were considerably reduced without commensurate reduction in cost.

The dealings of Bechtels were critically reviewed by the Board of Directors of IOC at their meeting held on 26th March, 1969, and they recorded *inter alia*:—

"Looking into the dealings and records of M/s. Bechtels, the Board decided that the Corporation will not have any dealings in future with the party."

The Committee need hardly point out that the Resolution of the Board of Directors of IOC is conclusive on the subject and underlines the need for a thorough investigation by Government to determine the manner and the reasons for which M/s. Bechtels were brought on to the scene first for Gauhati-Siliguri pipeline project and later for HBK project and paid over Rs. 1.5 crores with hardly any commensurate benefit to the project. In fact, but for their inept technical advice at crucial stages the history of the project of HBK pipeline may well have been different. The Committee would like Government to pursue the matter to its local conclusion, and take up with all those concerned with the introduction of this party to the pipeline projects and the undue favours which were shown to them at every stage evidenced by the unusual provisions of the agreements. The Committee cannot help pointing out that the then Managing Director, IRL, who was signing the agreement on behalf of IRL showed more concern for the interests of the Bechtels than for the Public Money he was entrusted with.

(Paragraph Nos. 9.1 to 9.8).

#### *Reply of Government*

The Government have referred the matters relating to the induction of Bechtels as Design Engineers and overall Supervisors in Gauhati-Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline and payments made to them to the Commission of Inquiry for a thorough investigations vide para (a), (b) and (1) of the Appendix I (reproduced below):—

#### *Terms of Reference*

- “(a) (i) to determine whether any payment to Bechtels (as Design Engineers and Overall Supervisors in Gauhati-Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment justified?  
(ii) was the induction of Bechtels into the aforesaid projects mala-fide, and were they shown any undue favour by officials of the IRL/Government.
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.

(1) arising out of (k); to recommend further action, if any, that must be taken against particular officials whose conduct is assessed as meriting this.

[Ministry of Petroleum & Chemicals and Mines & Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OB, dated 1st November, 1970]

### Comments of the Committee

It is quite obvious from the above recommendations that the Committee based on the whole set of evidence and information available to them had pointed out in clear and in no uncertain terms that induction of Bechtels into the Pipeline Projects was wrong, improper and unjustified and that undue favours were shown to the Bechtels at all stages during their association with the pipeline projects. By referring this matter to a Commission of Inquiry under term of reference (a) (ii), the Government have only re-opened the issues highlighted in the recommendations.

In the opinion of the Committee, reference of this particular matter under (a) (ii) to Commission of Inquiry was not warranted. In the context of these recommendations, an enquiry would have been in order for the specific purpose of fixing responsibility for the grave lapse pointed out by the Committee.

Under term of reference (a) (i), the Commission of Enquiry is required "to determine whether any payments to Bechtels (as Design Engineers and overall supervisors in Gauhati Silliguri Pipeline and as design monitors and Project Managers in HBK Pipeline) was made in excess of the amount sanctioned by Government and if so was such payment justified?"

Except in Recommendation No. 3 where the Committee recommended verification whether payment in excess of Government sanction was made nowhere in the other recommendations did the Committee say that payments were made to Bechtels in excess of amounts sanctioned by the Government. What the Committee had categorically stated was that payments made to Bechtels had nothing to do with the work accomplished and that they were not commensurate with the benefits to the project. The Committee take a serious view of the Government's attempt to misconstrue the recommendations of the Committee.

### B. DETAILED PROJECT REPORT

(Paras 3.62 and 3.63)

#### Recommendation (Sl. No. 5)

The Committee's recommendation No. 5 and Government's reply thereto read as under:—

"While the Committee can understand Snam Progetti being entrusted with the work of preparation of Preliminary Project Report,



they are puzzled by the acceptance of Indian Refineries Limited/ Government of the offer of Snam Progetti to prepare the Executive Project Report, without first taking a firm decision on the feasibility of the Pipelines and their alignments having regard to the economics of operation and other relevant factors. The Committee cannot appreciate the plea that it was done in the interest of saving one working season for the execution of the Project was taken up in actual fact only in March, 1964, that is after more than 18 months of commissioning Snam Progetti for the preparation of the Executive Project Report. The plea, therefore, is entirely untenable and unacceptable to the Committee and they deprecate the illusion of urgency which was created for telescoping the two distinct stages of preparing a Preliminary Project Report and Detailed Project Report to facilitate the IRL/Government to take rational decisions.

The Committee also find that the Government consulted the Indian Institute of Petroleum Dehra Dun, and other Indian experts, about the general alignments and terminal points for the pipeline, only in 1962 and decided in 1962 that the pipeline should be laid only between Haldia-Barauni and Barauni-Kanpur. The Committee feel compelled to observe that had Government taken the elementary precaution of setting the terminal points and general alignment of the pipeline in consultation with the Indian Institute of Petroleum Dehra-Dun, economists and other experts in the field, they would have saved both money and time by indicating clearly the requirements to the foreign company. The Committee would like Government to take remedial measures to ensure that such costly lapses which affect the very basis of planning and have grave financial and economic implications, do not recur.

[Paragraph No. 3.62 to 3.63].

### **Reply of Government**

"The Government have noted the recommendation."

[Ministry of Petroleum and Mines & Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

### **Further Information called for by the Committee**

Government may spell out remedial measures to ensure that such costly lapses which effect the very basis of planning and have grave financial and economic implications, do not recur. [L.S.S. O.M. No. 16-PU/68, dated 1st November, 1971].

### Further Reply of Government

The recommendation of the CPU to the effect that no project should be undertaken without first taking a firm decision on the feasibility of the project has been noted for future guidance and compliance. In fact, BPE have already issued detailed instructions in this regard which are being followed. Feasibility studies are now prepared in accordance with Planning Commission's Memorandum referred to therein. A copy of Bureau of Public Enterprises O.M. No. 2(75)/68-BPE(GM), dated 23rd April, 1968 is enclosed. (Appendix II).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR, dated 3rd November, 1971]

### Comments of the Committee

The Committee note that Government have issued detailed instructions vide O.M. No. 2(75)68-BPE(GM), dated 23rd April, 1968 laying down guidelines for preparation of feasibility studies. As regards the Committee's recommendations, Government have also added that "the recommendation of the CPU to the effect that no project should be undertaken without first taking a firm decision on the feasibility of the project, has been noted for future guidance and compliance." The Committee cannot too strongly stress that the instructions given by Government about preparation of the feasibility reports and a firm decision being taken on the feasibility reports before incurring further expenditure on detailed project reports etc., should be adhered to strictly by the public undertakings and care should be taken by Government to see that these are enforced. The Committee, however, find that one aspect highlighted in the recommendations made by them in Paragraphs 3.62 and 3.63 read with the supporting narration earlier, namely, the benefit derived from the Executive Project Report by Snam Progetti who were paid a sum of Rs. 39 lakhs has not been gone into. The Committee would like Government to investigate this matter in all its aspects. The Committee have, later in this report, made certain observations on the dealings of the public undertaking with Snam Progetti. The above aspect and other related matters may be taken up together for investigation by Government at the highest level.

### C. GLOBAL TENDERS

(Paras 2.41 to 2.42, 3.76 to 3.77, 9.9 to 9.12)

#### Recommendations (Serial Nos. 4, 8 and 28)

In recommendation No. 4, the Committee had said:—

#### Recommendation (Sl. No. 4)

"To conclude, the Committee are not able to appreciate the reasons why Indian Refineries Ltd./Government did not invite offers for undertaking engineering and supervision work from several well-known experienced

parties of ~~national and~~ international standing before favouring Bechtels with the assignments on rates which proved to be far from competitive and without any commensurate benefit.

The Committee are also not able to appreciate why Indian Refineries Ltd./Government did not call for global tenders for execution of the Project specially when the ENI credit which was ultimately availed of for the project contained a specific provision to the effect that IRL could "advertise and invite global tenders." While the Committee appreciate that Snam Saipem had the experience and knowledge of terrain, it would not have been unreasonable to expect that Snam Saipem would have offered even more competitive rates to gain the new contract in the face of keen competition by firms of national and international standing who were openly evincing keen interest in the work. The Committee need hardly point out that ENI group of companies had already their machinery, equipment and men in the country for execution of the Naharkatiya-Barauni crude pipeline and it was obviously in their interest to gain another pipeline contract. The Committee are of the view that had global tenders been invited nothing would have been lost, while there is every reason to believe that IRL would have considerably gained by inducing the firms to give most competitive offers in respect of cost and accommodation for foreign exchange component of the project."

(Paragraph No. 2.41 to 2.42).

This was about Gauhati-Siliguri Pipeline. Government's reply to this recommendation was:—

#### Reply of Government

"(a) The matter relating to the induction of Bechtels in G.S. Pipelines has been referred to the Commission of Inquiry for a thorough enquiry *vide* para (a)(ii) of the Appendix I (reproduced below):—

#### *Term of Reference*

"(a) (ii) was the induction of Bechtels into the aforesaid projects mala-fide, and were they shown any undue favour by officials of the IRL/Government."

(b) The Commission of Inquiry has also been entrusted to investigate the circumstances in which the IRL/Government awarded the construction contracts for Gauhati-Siliguri Pipeline to Sham-Saipem on negotiated basis without calling for global tenders *vide* para (g) of Appendix I (reproduced below):—

"(g) to investigate the circumstances under which IRL/Government awarded the construction contracts for Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipelines to Snam Saipem on negotiated basis without calling for global tenders."

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November 1970.]

About the HBK Pipeline, the Committee had made the following recommendation:—

**Recommendation (Sl. No. 8)**

“The Committee find that the Managing Director of Indian Refineries Ltd., in his letter of 5th April, 1963, had informed Government *inter alia* that: “The 9 firms addressed, including ENI—there are two each from USA, UK and France and one each from Italy, West Germany and Japan—have all expressed their keen interest in the work and have also stated that they expect to be able to offer credit for the foreign exchange cost involved.”

The Committee are, therefore, greatly surprised to find that the Managing Director in a subsequent letter of 6th July, 1963, addressed to the Secretary, Ministry of Mines and Metals, stated *inter alia*. “The execution of the project may be settled by negotiation with the concerned ENI company, an earlier decision to invite tenders from a number of selected companies being given up, mainly because of the probable difficulty of finding the foreign exchange involved, and also because of the likely delay in execution.” The Committee are not able to appreciate how the difficulty of foreign exchange could be made an alibi for not calling for global tenders when it is on record that out of the 9 firms including ENI addressed by Indian Refineries Ltd., two each from the USA, UK and France and one each from West Germany and Japan, had all expressed their keen interest in the work and also indicated that foreign exchange credit for the cost involved could be offered. It would also be recalled that the ENI credit itself contained a clause that global tenders by advertisement could be invited. The Committee are baffled with the manner in which the Managing Director reversed the earlier indication of going in for global tenders in his letter of 5th April, 1963 to Government by making all manner of assumptions in his letter of 6th July, 1963, of foreign exchange difficulties got accentuated during the brief period of three months to such an extent that even calling of global tenders linked with accommodation for foreign exchange component could be arbitrarily ruled out. If Government had made full use of the enabling provision in the ENI credit, they could have induced ENI group of firms to improve their terms, as they already had their machinery, equipment and men in India for execution of the pipeline project about this time between Gauhati and Siliguri. The global tender would have had the additional benefit of giving the Government an opportunity to test the offer of ENI against technological developments in the field all over the World and it is quite possible that the shortcomings, particularly in the capacity and alignment which came to mar the

project at a later date would have been avoided. The Committee would like Government to fully investigate the circumstances under which IRL and Government allowed themselves to be persuaded to hand over the construction contract to Sham-Saipem exclusively without putting it to sure and practical test of global tenders. (Paragraphs No. 3.76 to 3.77).

Government's reply to this Recommendation was:—

### Reply of Government

“The Commission of Inquiry has been requested to investigate the circumstances under which IRL/Government awarded the construction contracts for HBK pipelines to Sham-Saipem on negotiated basis without calling for global tenders, *vide* para (g) of Appendix I (reproduced below):—

#### *Term of Reference*

“(g) to investigate the circumstances under which IRL/Government awarded the construction contracts for Gauhati-Siliguri and Haldia-Baraunj-Kanpur Pipeline to Sham-Saipem on negotiated basis without calling for global tenders.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

Recommendation No. 28 had to say the following:—

### Recommendation (Sl. No. 28)

“The Committee have not been able to appreciate why Indian Refineries Ltd./Government did not call for global tenders for execution of Gauhati-Siliguri Pipeline and Haldia-Barauni-Kanpur pipeline, especially when the ENI credit, which was ultimately availed of for the Project contained a specific provision to the effect that IRL could “advertise and invite global tenders.” It is on record that there were as many as 8 other foreign companies of international standing, two each from USA, UK and France and one each from West Germany and Japan, who were evincing keen interest in execution of the project and were also willing to extend credit terms to meet the foreign exchange component of the project on terms and conditions which were not less favourable than ENI Credit.

While the Committee appreciate that Sham-Saipem had the experience and knowledge of Indian conditions, it would not have been unreasonable

to expect that Snam-Saipem would have offered even more competitive rates to gain the new contract in the face of been competitor by firms of national or international standing, who were openly evincing keen interest in the work. The Committee need hardly point out that ENI group of companies had already their machinery, equipment and men in the country for execution of the Naharkatya-Barauni crude pipeline and it was obviously in their interest to gain further pipeline contracts. The floating of global tenders would have had the additional merit of making the companies compete amongst themselves to construct a pipeline in keeping with the latest technological developments and experience over the world. It is also not illogical to believe that the details of these quotations would have enabled IRL/Government to make a comparative study and decide about the optimum design and pumping capacity for ensuring for achieving the prescribed throughput. The importance of this aspect cannot be overstressed for it has been found that Haldia-Barauni pipeline which is of strategic importance, has been found to be of 1.5 million tonnes capacity only as compared to the original intention of having a 3 million ton capacity pipeline.

The Committee are of the considered view that had global tenders been invited, nothing would have been lost, while there is every reason to believe that IRL would have considerably gained by inducing the firms to give most competitive offers in respect of cost, design and accommodation for foreign exchange component of the project.

Another aspect, which intrigues the Committee, is the reversal in the stand of the Managing Director, that the contract should be given on exclusive basis to SNAM, when only a few weeks earlier he is on record to the effect that global tenders should be floated. The Committee would like Government to fully investigate the circumstances under which the Indian Refineries Ltd. and Government allowed themselves to be persuaded to hand over the construction contract to Snam-Saipem exclusively without putting it to sure and practical test of global tenders. (Paragraph No. 9.9 to 9.12)".

Government's reply to recommendation No. 28 was as under:—

### **Reply of Government**

“Government have requested the Commission of Inquiry to investigate the circumstances under which Indian Refineries Ltd./Government awarded the construction contracts for Gauhati-Siliguri and HBK pipelines to Snam

Saipem on negotiated basis without calling for global-tenders *vide para (g)* of Appendix I (reproduced below) :—

*Term of Reference*

“(g) to investigate the circumstances under which IRL/Government awarded the construction contracts for Gauhati-Siliguri and Haldia Barauni-Kanpur Pipelines to Snam-Saipem on negotiated basis without calling for global tenders.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(12)/70-OR 1st November, 1970].

**Comments of the Committee**

While noting the reply of Government, the Committee feel that it would have been better if the Commission had also been specifically asked to fix responsibility for this lapse of not calling for global tenders. .

**D. SHORTFALL IN THE DESIGN CAPACITY OF HALDIA  
BARAUNI PIPELINE**

(Paras 3.81 to 3.38 and 3.86 and 9.14)

**Recommendations (Serial No. 9, 10 and 30)**

Recommendations 9, 10 and 30 refer to the internal administrative lapses regarding shortfall in design capacity of HB Pipeline and its corrosion. The recommendation and Government's replies thereto are reproduced below:—

**Recommendation (Sl. No. 9)**

“The Committee find that while most of the issues have been identified, the conclusions reached cannot command unquestioned acceptance, as, in the first place, these were inquired into either by Chairman, IOC or a Committee of the Directors of IOC who cannot, in the nature of things, be expected to probe, without reservations, into the action of the then Managing Director of Indian Refineries Ltd. as he was occupying at the time of inquiry by IOC the strategic position of Secretary of the Ministry of Petroleum and Chemicals, and under whose administrative control IOC fell.

Moreover, the Sub-Committee of four Directors of IOC (one of whom was later replaced on his transfer by another Director) who made inquiries into the matter included some highranking officers of IOC two of whom were earlier directly connected with the matter at the relevant time as Joint Secretary, etc., in the administrative Ministry of Mines and Fuel.

Further, some of the conclusions reached naturally are far from conclusive and appear more like a possible hypothesis to save the trouble of a detailed and searching inquiry." (Paragraph No. 3.81 to 3.83)

### Reply of Government

Noted.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(13)/70-OR dated 1st November, 1970]

### Further Information called for by the Committee

The precise action taken in the matter, may please be intimated.

[L.S.S. No. 16-PU/68 date 1st October, 1971]

### Further Reply of Government

The terms of the reference of the Pipeline Inquiry Commission have since been enlarged *vide* Notification No. 28(II)/70-OR dated 25.10.1971. The matters raised in the two recommendations at Sl. Nos. 9 and 10 are covered by the new terms of reference (h) read with the new term of reference (k) which was previously numbered (h) and are as follows:—

#### *Term of Reference*

"(h) whether the Snam-Saipem was shown any undue favour by officials of Indian Refineries Ltd. or Indian Oil Corporation or the Government, in connection with the award of the aforesaid contracts and in connection with the execution of the Gauhati-Siliguri and Haldia-Barauni Kanpur Pipeline Projects under the aforesaid contracts."

"(k) to advise on whether there has been any negligence or carelessness or *malafide* motive on the part of any of the officers of Government/IRL/IOC and their staff in the discharge of their duties on any of the foregoing or other related issues, which in the opinion of the Commission, are relevant."

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 29th November, 1971].

### Recommendation (Sl. No. 10)

"The Committee are constrained to say that while issues are posed, the problem is not faced squarely as evidenced in the first case from the observation "it will have to be a very exhaustive exercise to be undertaken by the senior engineers and accountants." and in the second case in respect



of the cost of modification for reaching 2 million tonnes pipeline capacity that it would have "to be estimated carefully, but *prima facie* it may be stated that this will be in excess of \$200,000 mentioned by Bechtel. All pumping units will have to be imported." (Paragraph No. 3.86).

### Government's Reply

Noted.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

#### Further Information called for by the Committee

The precise action taken in the matter may be intimated.

[L.S.S. O.M. No. 16-PU/68 dated 1st October, 1971]

#### Further Reply of Government

The terms of the reference of the Pipeline Inquiry Commission have since been enlarged *vide* Notification No. 28(II)/70-OR dated 25th October 1971. The matters raised in the two recommendations at Sl. Nos. 9 and 10 are covered by the new terms of reference (h) read with the new terms of reference (k) [which was previously numbered (h)] and are as follows:—

#### Term of Reference

"(h) Whether the Snam-Saipem was shown any undue favour by officials of IRL/IOC/Government in connection with the award of the aforesaid contracts and in connection with the execution of Gauhati-Siliguri and Haldia-Barauni Kanpur Pipeline Projects under the aforesaid contracts."

"(k) to advise on whether there has been any negligence or carelessness or *malafide* motive on the part of any of the officers of Government/IRL/IOC and their staff in the discharge of their duties on any of the foregoing or other related issues, which in the opinion of the Commission, are relevant."

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 29th November, 1971].

#### Recommendation (Sl. No. 30)

"Similarly, in the case of inquiries held by the IOC regarding shortfall in the capacity of the pipeline as compared to the intended capacity or design capacity, the matter has been investigated by a sub-committee of the Directors of IOC, which had on it a number of officials who had earlier been connected actively with the Department of Mines and Fuel at the relevant time.

The Committee have also pointed out how issues have been posed but the problem has not been faced squarely. (Paragraph No. 9.14).

### Government's Reply

Noted.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

### Comments of the Committee

The Committee would like to point out that this term of reference relates only to Snam-Saipem, the construction contractors, and not Sham-Progetti who were the design contractors and who were also involved in this matter. Even now the Government must entrust the whole matter of internal administrative lapses in the short-fall of the design capacity of the HB Pipeline and its corrosion for a searching inquiry by Government.

(Paras 3.89 to 3.92 and 15)

### E. LOSS OF DOCUMENTS

#### Recommendations (Serial Nos. 11 and 31)

Recommendation Nos. 11 and 31 of the Committee and Government's replies thereto read as follows:—

#### Recommendation (Sl. No. 11)

"The Committee take a very serious view of the fact that the important records of IRL, particularly the Enclosure 18 of Part II—"Job Description", etc. and papers indicating the stages of processing of contract documents at the various levels of managements, are not available and are reported to be missing. The loss of such vital documents cannot be treated with complacency. What amazes the Committee most is that "no record was kept of those discussions at various stages" which led to the "finalisation of contractual matters." All this is sought to be justified on the ground that the work was handed on a "war footing." The Committee are unable to accept this plea as they consider it the first and foremost duty of those who are handling important negotiations involving crores of rupees to maintain faithfully contemporaneous records of the negotiations so that these can be suitably drawn upon for settling details of the agreement and for informing the Board of Management/Government of the nuances of the various clauses of agreement and how maximum advantage has been secured for the Public Undertaking and every care exercised to safeguard public interest. The Committee cannot resist the impression that the negotiations were not carried out with diligence or care; otherwise how else can the defective nature of agreements with foreign companies be explained.

Moreover, the procedure of dealing with such matters on a war footing has given neither results in the matter of expeditious completion of the pipeline (it was delayed in commissioning by more than 18 months), nor achieved the objective underlying its construction in as much as the capacity established is far below the 3 million tonnes capacity of Barauni refinery.

The Committee would like Government to take very serious notice of this lapse on the part of those who were entrusted with the negotiations and take suitable action against them.

The Committee would also like Government to issue standing instructions in consultation with the Ministry of Finance and the Comptroller and Auditor-General of India on the manner in which contemporaneous records of such negotiations should be kept for future reference. A copy of these instructions may also be furnished to the Committee for information." (Paragraph No. 3.89 to 3.92)

### Government's Reply

(a) The issues raised in above three paras have been referred to the Commission of Inquiry *vide* para (b) of Appendix I. (reproduced below):—

"(b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur Pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.

(b) Recommendation contained in the concluding para has been brought to the notice of the Ministry of Finance/BPE for further necessary action.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O. M. No. 15(17)/70-OR dated 1st November, 1970].

### Further Information called for by the Committee

Government may indicate the precise action taken by the Bureau of Public Enterprises in the matter. They may also furnish a copy of the standing instructions, if any issued in the matter.

(L.S.S. O.M. No. 16-PU 68 dated 1st October, 1971)..

### Further Reply of the Government

In accordance with the recommendation contained in para 3.92 of the Report, necessary instructions as to how contemporaneous records of negotiation that lead to agreements/contracts, are to be kept by Public Enterprises have been issued in consultation with the Comptroller and Auditor General *vide* Ministry of Finance BPE No. 3(6)/66/70-BPE(IC) dated the 24th July, 1971 (Appendix III).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 3rd November, 1971].

### Recommendation (Sl. No. 31)

"The Committee also take a very serious view of the fact that the important record of IRL, particularly Enclosures 18 of Part II-'Job Description', etc. papers indicating the stages of processing of contract documents at the various levels of management are not available and are reported to be missing. The loss of such vital documents cannot be treated with complacency. What amazes the Committee most is that 'no record was kept of these discussion at various stages' which led to the 'finalisation of contractual matters'. The Committee cannot accept the plea of dealing with such important matters on 'war footing' as it has neither given results in the matter of expeditious completion of Haldia-Barauni-Kanpur Pipeline (it was delayed in commissioning by more than 18 months), nor achieved the objective underlying its construction in as much as the capacity established is far below the 3 million tonnes capacity of Barauni refinery. (Paragraph No. 9.15)".

### Government's Reply

"The issues raised in this recommendation have been referred to the Commission of Inquiry for a further probe *vide* para (b) of Appendix I (reproduced below):—

#### *Term of Reference*

"(b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept."

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1st November, 1970].

### Comments of the Committee

These recommendations have three parts

- (1) Future guidance in the matter of maintaining contemporaneous records of negotiation and agreements;
- (2) Negligence of the I.R.L. in the matter of maintaining these records; and
- (3) Question regarding missing of vital documents.

As for (1) the future guidance in the matter of maintaining contemporaneous records, the Committee note that suitable guidelines have been issued by Government.

Regarding (2) the term of reference (b) to the Commission of Inquiry will cover the question of negligence on the part of I.R.L./Government in the matter of maintaining contemporaneous records of negotiations and contracts.

As for (3) the Committee are, however, amazed at Government's failure to take any action in the matter of a very serious lapse, viz., missing of vital documents. In the opinion of the Committee such a serious matter could not have been adequately gone into by a sub-committee of the Board of Directors. This was and still is, a matter for thorough investigation.

### F. RECORD OF NEGOTIATIONS (Para 9.22)

#### Recommendation (Serial No. 35)

Recommendation No. 35 and Government's reply thereto read as follows:—

'Another matter, which has greatly exercised the mind of the Committee, is lack of record of negotiations carried out by the Managing Director of the Indian Refineries Ltd., with the foreign companies leading to the conclusion of the agreement. The Committee have urged that Govt. should issue standing instructions in consultation with the Ministry of Finance and the C&AG of India about the manner in which contemporaneous record of such negotiations should be kept for future reference and use of the Board of Management/Government to enable them to appreciate nuances of the various clauses of an agreement and satisfy themselves that maximum advantage has been secured for the public undertaking and every care has been exercised to safeguard the public interest. (Paragraph 9.22).''

### Reply of Government

This recommendation has been brought to the notice of the Ministry of Finance for further necessary action.

[Min. of Pet. & Ch. and Mines & Metals) O.M. No. 15(17)/70-OR dt. 1-11-70]

### Further Information called for by the Committee

Government may indicate the precise action taken by the Bureau of Public Enterprises in the matter. They may also furnish a copy of the standing instructions, if any, issued in the matter.

[L.S. Sectt. O.M. No. 16-PU/68 dt. 1st October, 1971].

### Further Reply of Government

In accordance with the recommendation contained in para 3.92 of the Report, necessary instructions as to how contemporaneous records of negotiation that lead to agreement/contracts, are to be kept by Public Enterprises have been issued in consultation with the Comptroller and Auditor General *vide* Ministry of Finance, BPE No. 3(6)/66/70-BPE(IC) dated 24th July, 1971 (Appendix III).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dt. November 3, 1971.]

### Comments of the Committee

The Committee hope that these instructions are being followed by the Indian Oil Corporation.

### G. MANAGING DIRECTOR'S MODE OF FUNCTIONING:

(Paras 3.94, 3.108, 9.16 to 9.20)

#### Recommendations (Serial Nos. 12, 17, 32 and 33)

Recommendation Nos. 12, 17, 32 and 33 dealt with the mode of Managing Director's functioning.

To all these recommendations, the Government's reply is that they are covered by the terms of reference (b), (c), (k) and (i) to the Commission of Inquiry:

Before commenting on this, the Committee would like to recapitulate the above recommendations and Government's replies thereto. These are reproduced below:—

### **Recommendation (Sl. No. 12)**

“The Committee too are greatly “intrigued” how a very important communication from Bechtels which clearly mentioned the design capacity of the pipeline as 1.9 million tonnes per year did not make the then General Manager, Managing Director of IRL to sit up and take a firm and unequivocal stand on this attrition of the capacity of the pipeline. The Committee are amazed that the reduction of the throughput capacity of the pipeline could have been dealt within such a casual and perfunctory manner. The Committee consider that the matter calls for through investigation for fixing responsibility on all those officials who were lax and casual in discharging their responsibilities. (Paragraph No. 3.94).”

### **Government's Reply**

This has been referred to the Commission of Inquiry for thorough investigation *vide* (c) of Appendix I (reproduced below:—

#### *Term of Reference*

“(c) Whether the then Managing Director, IRL acted on his own by-passing the Board of Directors in his dealings with Snam- and Bachtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline, and whether negligence or improper motive is substantiated against the MD, IRL, for not bringing these to the notice of the Board/Government and in particular whether the General Manager and Managing Director were perfunctory and casual in dealing with an important communication of the 26th September 1963 from Bechtels to IRL mentioning the design capacity of Haldia-Barauni Pipeline as 1.9 million tonnes per year.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR, dated 1st November, 1970].

### Recommendation (Serial No. 17)

"The above extracts (given in para 3.107) from the Resolution of the Board of Directors of IOC would conclusively prove that the then Managing Director was acting on his own in his dealings with Snam as well as Bechtels in vital matters concerning the capacity of the pipeline; by-passing thus the Board of Directors. He also failed to obtain prior specific approval either of the Board of Directors or Government to the deviations which adversely affected the capacity of the Project without any commensurate saving in expenditure. The Committee are puzzled how the Board of Directors/Ministry allowed the then Managing Director to act in this manner to the detriment of public interest. The Committee would like Government to fully investigate the matter and fix responsibility. (Paragraph 3.108)."

### Government's Reply

The Commission of Inquiry is also to enquire into issues raised in this recommendation *vide* para (c) and (k) of Appendix I (reproduced below):—

#### *Terms of Reference*

"(c) Whether the then Managing Director, IRL acted on his own by-passing the Board of Directors in his dealing with Snam and Bechtels in matters concerning the capacity of the Haldia-Barauni-Kanpur Pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline, and whether negligence or improper motive is substantiated against the MD, IRL, for not bringing these to the notice of the Board/Government and in particular whether the General Manager and MD were perfunctory and casual in dealing with an important communication of the 26th September, 1963 from Bechtels to IRL mentioning the design capacity of Haldia Barauni Pipeline as 1.9 million tonnes per year.

(k) to advise on whether there has been any negligence or carelessness or *malafide* motive on the part of any of the officers of Govt./IRL/IOC and their staff in the discharge of their duties on any of the foregoing or other relating issues, which, in the opinion of the commission, are relevant;

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1st November, 1970].



### Recommendation (Serial No. 32)

"The Committee have also pointed out the casual manner in which an important communication from Bechtels which clearly mentioned the design capacity of Haldia-Barauni pipeline as 1.9 million tonnes per year did not make the then General Manager/Managing Director of IRL take a firm and unequivocal stand on this attention of the capacity of the pipeline (Paragraph No. 9.16)."

### Government's Reply

As already stated *vide* Govt's reply to recommendation No. 12 that this too has been referred to the Commission of Inquiry for a thorough enquiry into the matters and for fixing responsibility *vide* para (c), (d) and (l) of the terms of reference (reproduced below):—

#### *Term of Reference*

- (c) Whether the then Managing Director, IRL, acted on his own by-passing the Board of Directors in his dealings with Snam and Bechtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur Pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline, and whether negligence or improper motive is substantial against the MD, IRL, for not bringing these to the notice of the Board/Government and, in particular, whether the General Manager and MD were perfunctory and casual in dealing with an important communication of the 26th September, 1963 from Bechtels to IRL mentioning the design capacity of Haldia-Barauni Pipeline as 1.9 million tonnes per year.
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia--Barauni-Kanpur pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.
- (l) arising out of (k); to recommend further action, if any that must be taken against particular officials whose conduct is assessed as meriting this.

### Recommendation (Serial No. 33)

"It is also a matter for concern how an agreement with Snam for Haldia-Barauni-Kanpur Project was executed on 31st July, 1963; the very day on which sanction of the Government for it was received. The expedition in dealing with the matter would have been commendable but for the fact that the agreement suffers from many defects, including absence of any provision for penalty for any lapses by Snam-Saipem.

It is also on record that the amendment effected in July, 1964 to the original agreement of July, 1963 of IRL with Snam, had in all probability resulted in increasing the liability of IOC for civil works without any commensurate benefit.

It is also on record that the Managing Director was acting on his own in his dealings with Snam as well as Bechtels in vital matters concerning the capacity of the pipeline, bypassing thus the authority both of the Board of Directors and Government. The Board of IOC have also gone on record to the effect, at the meeting held on 3rd February, 1968, that: "Out of the report and the discussions thereon, it emerged that the Board had been bypassed in the matter. The Board was very emphatic that the matter of such importance should necessarily be reported to the Board at the earliest possible opportunity. The Board also wanted to place on record that in future all such important matters which entail in its itself any project of capital nature involving its performance capacity, design or of financial implications, should be brought before the Board for its notice and appropriation. The Board's decision in the above matter also applies to any significant amendments which are of the above nature to any existing contracts or project."

The Committee feel that in the interest of ensuring the high officers entrusted with the responsibility of managing public undertaking and of carrying out delicate negotiations with foreign companies discharge their responsibilities diligently, honestly and in the best public interest, the above-mentioned lapses should be investigated fully without fear and favour and all those found at fault awarded deterrent punishment. (Paragraph No. 9.16 to 9.19)".

### Reply of Government

In accepting Committee's recommendation the Government have requested the Commission of Inquiry to enquire whether the then Managing Director, IRL, acted on his own in vital matters concerning the capacity of the pipelines etc. *vide* (c), (b) and (1) of Appendix. 1.

*Term of Reference*

- (c) Whether the then Managing Director, IRL, acted on his by-passing the Board of Directors in his dealings with Snam and Bechtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur Pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline, and whether negligence or improper motive is substantiated against the MD, IRL, for not bringing these to the notice of the Board/Government and, in particular, whether the General Manager and MD were perfunctory and casual in dealing with an important communication of the 26th September, 1963 from Bechtels to IRL mentioning the design capacity of Haldia-Barauni Pipeline as 1.9 million tonnes per year.
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur Pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.
- (1) arising out of (k), to recommend further action, if any that must be taken against particular officials whose conduct is assessed as meriting this; and”.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1st November, 1970]

**Comments of the Committee**

The above recommendations are very clear unequivocal and emphatic. The then Managing Director admittedly acted on his own; he did by-pass the Board of Directors in his dealings with Snam and Bechtels in vital matters concerning the capacity of the HBK Pipeline; the amendment of contract did adversely affect the capacity of the pipeline; negligence was substantiated against the MD/IRL for not bringing these to the notice of the Board/Government; the General Manager and Managing Director were perfunctory and casual in dealing with an important communication of the 26th September, 1963 from Bechtels to IRL mentioning the design capacity of H-B Pipeline as 1.9 million tonnes per annum. These are all matters of fact and they had been amply and demonstrably established..

What the Committee wanted in these recommendations was that a thorough investigation for fixing responsibility on all those officials who were lax and casual in discharging their responsibilities should be conducted. The Committee expect that Government would do that even now.

## H. AGREEMENT WITH SNAMS (Para 3.96)

### Recommendation (SL. No. 13)

Recommendation No. 13 and Government's reply thereto read as follows:—

### Recommendation (Sl. No. 13)

"The Committee need hardly point out that it is not without significance that the date of sanction of Government letter to Indian Refineries Ltd. to enter the construction contract and the actual date of signing of the contract by the IRL with Snam Saipem is the same viz. the 31st July, 1963. The Committee are not able to appreciate the great haste with which such an important contract involving over Rs. 11 crores was concluded without fully safeguarding Government's interests. (Paragraph No. 3.96)".

### Reply of Government

There are many contracts which are signed on the same day on which the approval of the Competent Authority is received because necessary discussions and negotiations are already complete before the approval is sought, and this need not be taken to indicate any undue haste.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dt. 1-11-70]

### Further Information called for by the Committee

A list of such contracts may be furnished for information and use of the committee.

[LSS O.M. No. 16-PU/68, dated 1st October, 1971].

### **Further Reply of Government**

A list of some contracts which were signed on the same day on which the approval of the Competent Authority was received or within two or three days of such approval is enclosed (APPENDIX IV).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated  
3rd November, 1971]

### **Comments of the Committee**

Firstly, the Committee had pointed out that the date of Government's sanction and date of signing the contract being the same is not insignificant. If such a thing has happened in five other cases, it thereby does not lose its significance.

Secondly, the Committee find that all these five examples cited by the Government relate to contracts executed by the same authorities which had also executed the contract with Snam-Saipem for HBK Pipeline project. This coincidence also does not seem to be without significance.

However, what was important in this recommendation of the Committee was not so much the coincidence of date as the failure to safeguard the Government's interests. The Committee, while reiterating its earlier recommendation would like the Government to take appropriate action in the matter.

#### **1. COMPENSATION FROM SNAM (Paragraph 3.100)**

##### **Recommendation (Serial No. 14)**

The reported agreement between I.O.C. and Snam needs careful scrutiny of Government to make sure that full damages have been recovered from Snam for the proved deficiency in the capacity as compared to the commissioned capacity. (Paragraph No. 3.100).

##### **Reply of Government**

"Noted. Chairman and Managing Director, Engineers India Ltd. has been entrusted with the scrutiny."

##### **Further Information called for by the Committee**

The Government may state the result of scrutiny by the Chairman and Managing Director, Engineer's India Ltd. as to whether or not full damages have been recovered from SNAM for the proved deficiency in the capacity as compared to the Commissioned Capacity.

### Further Reply of Government

The findings of the Engineers India Ltd. as confined in their letter dated 31st May, 1971, are enclosed (Appendix V).

The Engineers India Ltd. have found that the cost recovered from M/s. Snam Progetti towards bringing the pipeline capacity to 2 million tons is reasonable.

The Committee would, however, recapitulate the relevant parts from the following recommendations here:

#### Recommendation No. 7 (Para 3.73)

\* \* \*

"Later in this Chapter the Committee have pointed out how the actual throughput capacity of Haldia-Barauni pipeline for pumping crude oil has been found to be even less than 1.5 million tonnes, as compared to Government's intention of building a pipeline with 3 million tonnes capacity to match the plans for expansion of Barauni to 3 million tonnes by 1966."

\* \* \*

#### Recommendation No. 11

\* \* \*

"Moreover, the procedure of dealing with such matters on a war footing has given neither results in the matter of expeditious completion of the pipeline (it was delayed in commissioning by more than 18 months), nor achieved the objective underlying its construction in as much as the established is far below the 3 million tonnes capacity of Barauni refinery." (Paragraph 3.90).

\* \* \*

#### Recommendation No. 27

\* \* \*

"Bechtels played a crucial role in the discussion at Milan in July, 1963, which led to the conclusion of faulty agreement with snams for construction of the pipeline with capacity of even less than 2 million tonnes against the intended capacity of 3 million tonnes." (Paragraph 9.4).

**Recommendation No. 28 (Paragraph 9.10)**

\* \* \*

“The importance of this aspect cannot be overstressed for it has been found that Haldia-Barauni pipeline which is of strategic importance, has been found to be of 1.5 million tonnes capacity only as compared to the original intention of having a 3 million tonne capacity pipeline.”

**Comments of the Committee**

From the above recommendations it would appear that the capacity of HB Section of Pipeline was to be 3 million tonnes and not 2 million tonnes. How the damages have been calculated on the basis of 2 million tonnes capacity is not very clear to the Committee. The Committee would strongly urge upon the Government to get a thorough investigation conducted into the whole matter of:—

- (i) three million tonnes design capacity getting reduced to two million tonnes design capacity and actual installed capacity being reduced even further to 1.5 million tonnes
- (ii) Of missing contractual records;
- (iii) Of absence of a DPR;
- (iv) Of absence of a penalty clause even in the exchange of letters with Snam-Progetti.

The Committee find that while studying the reasonableness or otherwise of damages recovered from Snam for proved deficiency in the capacity of HBK Pipeline, Engineers India Ltd., had taken into consideration only the capital cost of extra equipment and material that would be needed to achieve full capacity of 2 million tonnes per year but did not seem to have taken into account the recurring expenditure on maintenance, additional power and other facilities that would be required to work the pipeline to its full capacity. The Committee feel that even on the basis of 2 million tonnes capacity, the compensation calculated is inadequate as it does not take into consideration the additional recurring expenditure that would have to be incurred.

**J. LEGAL RESPONSIBILITY OF SNAM AND BECHTELS (Para 3.102)**

**Recommendation (Serial No. 15)**

Recommendation No. 15 and Government's reply thereto stated the following:—

“The Committee, however, have not been furnished the full text of the legal opinion of Shri A. A. Peerbhoy as to the nature and extent of responsibility of the contractors on the relevant issues. The Committee

would like Government to obtain the legal opinion at the highest level so that the best construction can be put upon it and no effort is spared to bring home the responsibility for this failure to Messrs Snam and Bechtel. (Paragraph 3.102)."

### **Reply of Government**

"The Committee were not furnished the text of Shri Peerbhoy's advice, as they did not ask for it.

Since sound legal opinion has already been obtained, it does not appear worthwhile to have another opinion."

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dt. 1-11-70]

### **Further Information called for by the Committee**

The Committee would like to have a copy of the advice tendered by Shri A. A. Peerbhoy in this case.

[LSS O.M. No. 16-PU/68 dated 1st October, 1971]

### **Further Reply of Government**

A copy of the advice tendered by Shri A. A. Peerbhoy is enclosed (Appendix VI).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 3rd November, 1971]

### **Comments of the Committee**

Having studied the legal advice tendered by Shri Peerbhoy, the Committee would like to point out the following:

- (a) Shri Peerbhoy was also a Director of IOC during the period covered by the Committee's 66th Report. It would have been more desirable if an independent legal authority should have gone into the matter.
- (b) Shri Peerbhoy himself says: "I am given to understand that there is no formal contract entered into with Snam Progetti." He, however, considers the project design description as a binding agreement. His conclusions are based on such inadequate information that was made available to him.
- (c) Shri Peerbhoy has held Snam Progetti legally responsible for failure to attain a capacity of 2 million tonnes only.



The Committee note that Shri Peerbhoy on the basis of the facts and information made available to him by the I.O.C. has given a clear ruling that Snam Progetti and other foreign companies were responsible for the shortfall. The Committee have elsewhere in the Report pointed out that the original intention of the Government was to have a capacity of 3 million tonnes. The Committee would reiterate that Government should leave no stone unturned in order to recover in full the damages for the shortfall in the capacity of the pipeline.

**K. ABSENCE OF GOVERNMENT SANCTION (Paras 3.111 to 3.112)**  
**Recommendation (Serial No. 18)**

The first part of recommendation No. 18 reads as follows:

“The Committee have noted with grave concern the observations of the Internal Audit Officer that there does not appear to exist any sanction of Government for the execution of the Haldia-Barauni-Kanpur Projects over which an expenditure of over Rs. 26 crores has already been incurred. The Committee would like to be informed of the factual position. If the position as stated in the Report of the Internal Audit Officer is correct, the Committee expect Government to take action against all those who are responsible for this lapse.”

(Paragraph No. 3.111)

Government's reply to this is:

**Reply of Government**

“The Commission of Inquiry has been requested to investigate the circumstances in which the sanction for the total project cost of H.B.K. Pipeline was not issued by Government and whether there was any loss to the public interest as a result *vide* para (d) of Appendix I (reproduced below):—

“(d) To investigate the circumstances in which sanction for the total project cost of HBK pipeline was not issued by Government and whether there was any loss to the public interest as a result.”

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1st November, 1970]

The second part of Recommendation No. 18 read as follows:—

“The Committee are not able to appreciate how this important Audit Report dealing with several matters of vital importance to IOC could be allowed to remain without detailed investi-

gation and report, both to the Board of IOC and Government. The Committee need hardly stress that the various other issues raised in the Audit Report should be thoroughly examined in consultation with the Comptroller and Auditor General and the responsibility for the loss suffered by the Undertaking/Government fixed and deterrent action taken against all those who have shown laxity in the discharge of their responsibilities." (Paragraph 3.112).

The Government's reply to this part of the recommendation is:

#### **Reply of Government**

"The IOC have been asked to arrange for the special scrutiny by CAG of the Audit Report submitted by the Internal Audit Officer."

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1-11-1970].

#### **Further Information called for by the Committee**

"Government may furnish the result of the special scrutiny undertaken by the C and AG of the Audit Report submitted by the Internal Audit Office on the subject. The Government may also state the reasons for not taking action earlier on the Audit Report. Copy of the Report submitted by the C and AG's office together with Government decisions thereon may also be asked for use of the CPU. Government may further state whether there are any standing instructions that the Audit Report should be dealt with without delay. If instructions exist, a copy thereof may be sent. The Committee would like the Government to investigate and fix responsibility as to why action was not taken promptly."

[LSS O.M. No. 16-PU/68 dated 1st October, 1971]

#### **Further Reply of Government**

"There are no standing instructions issued by Government laying down the time within which the Internal Audit Report of the Public Sector Undertaking should be dealt with. Internal Audit is a matter entirely within the purview of the concerned Undertaking. A copy of the instructions issued by the IOC (Pipeline Division) regarding Internal Audit is enclosed. According to these instructions, Internal Audit Officer is required to draw up a monthly programme and obtain the approval of the Financial Controller and then to carry out the Audit of various units and offices in accordance with the approved programme. Internal Audit

Officer is required to submit his report to the Financial Controller who should then send his report to the Director Incharge and the Financial Director. Any points outstanding for more than two months for want of reply from the concerned officer are required to be brought to the notice of the Director Incharge and the Financial Director by the Financial Controller.

In the instant case, it appears that the then Director Incharge Pipelines Division asked the Internal Audit Officer direct in July, 1967 to study the files relating to the Conclusion of HBK contracts with SNAM SAIPEM and submit a detailed note to him. This particular Internal Audit Report was given by the Internal Audit Officer on the 1st August, 1967 to the then Director Incharge (Pipelines Division) Shri S. K. Guha who, however, did not mark it to any officer for action.

However, Shri Arun Roy Choudhury, a Director on the IOC Board, produced copy of this report when he appended it with his note of Dissent dated 6-8-1966, in respect of Agenda No. P. 23/ of 2-7-1969 of the IOC Board on the subject of "Internal Administrative Lapses in the matter of occurrence of corrosion and shortfall in the design capacity of the HBK Pipeline Section, "which was then considered by IOC Board in the light of Shri Arun Roy Choudhury's Note of dissent.

This Ministry advised IOC in September, 1970 to arrange for a special scrutiny of the Internal Audit Report by C and AG and IOC requested the C and AG accordingly. The Assistant C and AG, however, replied to IOC in October, 1970 that the Internal Audit Report should first be examined by IOC Ministry and then sent to Audit alongwith the results of the examination and at that stage this matter should be referred to the C and AG by the Ministry alongwith the relevant files.

IOC's comments on the concerned Internal Audit Report have since been received and are being examined by the Ministry. The relevant files are at present in the custody of the Pipeline Inquiry Commission.

In the concerned Report, the Internal Audit has commented upon:—

- (i) The changes made in the line capacity from time to time;
- (ii) Amendment of the main contract;
- (iii) Project Design Description;
- (iv) Sanction of the Project cost estimates.

The last of the above, namely, sanction of the project cost estimates is a matter already included in Item (d) of the terms of reference of Pipeline Inquiry Commission. As the matters relating to the contract

with SNAM have also since been included in the terms of reference *vide* Item (h) of this Ministry's Notification dated 25th October, 1971, the other three points commented upon in the Internal Audit Report will also now fall within the purview of the Inquiry by the Commission."

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 29th November, 1971]

### Comments of the Committee

The term of reference shows that 'sanction for the total project cost of HBK pipeline was not issued by the Government.' The fact, therefore, remains that there was no sanction of Government for the total project cost of HBK pipeline project over which an expenditure of over Rs. 26 crores had already been incurred. There cannot be a graver lapse than this and the Committee emphatically reiterate their earlier recommendation 'to take action against all those who are responsible for this lapse.'

### L. TRANSFER OF KOYALI-AHMEDABAD PIPELINE (Para 4.13)

#### Recommendation (Serial No. 19)

Recommendation No. 19 and Government's reply thereto read as follows:—

"The Committee regret that although the *de facto* transfer of Koyali-Ahmedabad Pipeline has taken place the question of *de jure* transfer of the Koyali-Ahmedabad Pipeline has not been settled since 1967 in spite of the fact that both IOC and ONGC are under the administrative control of the same Ministry, such prolonged indecision and delay in the Ministry in the opinion of the Committee, are not indicative of expeditious and business-like approach, which should distinguish a Ministry administering public undertakings. (Paragraph No. 4.13).

#### Reply of Government

The *de jure* transfer of the Koyali-Ahmedabad Pipeline has been effected with effect from 1-4-1970. The amount of lease money has already been paid to the Oil and Natural Gas Commission. However, the formal transfer deed is expected to be signed very shortly.

[Ministry of Petroleum and Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1-11-1970].

### **Further Information Called for by the Committee**

Government may indicate whether the transfer deed in respect of Koyali-Ahmedabad Pipeline has since been signed and if so, on what date? A copy of the transfer deed may also be furnished for use of the Committee.

[LSS O.M. No. 16-PU/68 dated 1st October, 1971].

### **Further Reply of Government**

The transfer deed in respect of Koyali-Ahmedabad Pipeline was signed on 31st March, 1971. A copy of the deed is enclosed (Appendix VII). [Ministry of Petroleum and Chemicals O.M. No. 15(17)/70 dated 3rd November, 1971].

### **Comments of the Committee**

The Committee do not wish to pursue this recommendation in view of Government's reply.

## **M. ESCALATION IN ESTIMATES (Paras 5.10 to 5.18 and 9.21)**

### **Recommendations (Serial Nos. 20 and 34)**

Recommendations 20 and 34 and Government's replies thereto read as follows:—

#### **Recommendation 20**

"The Committee find that the Estimates of the Gauhati-Siliguri Pipeline have escalated to the extent of 25 per cent during the course of 3 revisions, whereas in the case of Haldia-Barauni-Kanpur Pipeline the estimates have escalated to the extent of 15 per cent in the course of two revisions. The final estimates of Haldia-Barauni pipeline are still to be prepared.

The present system of control on public undertakings envisages a three tier system of financial control:—

- (a) Control of Board of Directors
- (b) Control of Government
- (c) Control of Parliament

The Committee are concerned to find that the whole system of three tier financial control has not been properly applied in controlling the finances of this Undertaking. They find that the Project estimates of G.S.

Pipeline for Rs. 591.20 lakhs were sanctioned by Government on 4th October, 1962. After this sanction the undertaking went on spending money on its own far in excess of the sanctioned estimate of Rs. 591.20 lakhs and submitted to Government only in January, 1966 the final estimates of the Project as Rs. 775.38 lakhs after the completion of the Project. The Committee find that this excess expenditure of Rs. 184.18 lakhs for the completion of the Project was done by the Undertaking without any proper approval of the Government, although according to the prescribed financial procedure and rules not more than 10 per cent of the sanctioned amounts, an undertaking could incur without the Government's sanction. To a question as to how the Government permitted this unauthorised expenditure beyond 10 per cent of the sanctioned estimates by the Undertakings, the Ministry in a written reply have stated as follows:—

“It has not been possible to trace the exact reasons why IOC continued the completion of the Project at the enhanced cost without getting interim sanction for this.”

The Committee find that the Board revised the estimates of the Project for the first time on 28th January, 1963 as Rs. 661.52 lakhs. The Committee fail to understand why these revised estimates were not referred to the Ministry and also why the Ministry's representative, on the Board did not take note of it and informed the Government of this unusual escalation of cost.

The Committee understand that the Indian Refineries Ltd. had a Financial Division. They are, therefore, unable to appreciate how the Financial Controller could allow the expenditure to be incurred without proper sanction for revised estimates of the Board/Government. The casual and leisurely manner in which the Indian Refineries Ltd. have approached the question of revision of the estimates and its *ex post facto* regularisation by Board/Government are indicative of the fact that effective control and direction are not being exercised. It is for this reason that the undertakings have come to play with the tax-payer's money without paying adequate attention to the prescribed procedure of obtaining Government's prior approval to the revised estimates. The Committee would like in this connection to draw attention to Paras 1.7 and 1.9 of the Fiftieth Report of the Public Accounts Committee (Fourth Lok Sabha) on New Services and New Instrument of Service and stress that effective action should be taken by the Government to implement the recommendations and take prior approval of Parliament in case of substantial revision. The Committee also expect that while examining the question of according approval to revised estimates, Government would seriously consider its effects on the economics of the Project. The Committee feel that where the economics of the Projects are adversely affected as a result of

revised estimates of expenditure the matter should be specially brought to the notice of Parliament without avoidable delay.

What amazes the Committee most is that the Government did not bother to examine the type of control that they had on the Undertaking and allowed complete freedom to the Undertaking which were not permitted even by the delegation of powers.

The Committee recommend that the circumstances under which the Undertaking was allowed to spend money beyond 10 per cent of the sanctioned estimates without the approval of the Government should be investigated and the persons responsible both in the Undertaking and the Ministry should be proceeded against.

The Committee strongly recommend that in future prescribed principles of financial control should be adhered to by all undertakings including the IOC. The Committee regret that in no year the Demands for Grants of the Ministry provided for the expenditure and for full six years Parliament was unaware of what was happening in the financial administration of the undertaking. Taking strong exception to bypassing of Parliament's financial control, the Committee recommend that in future all cases of Project Estimates, the Revised Estimates should be given effect to only after Parliament has approved of the total Capital Expenditure on the entire project or the revision of the project estimates as the case may be.

(Paragraph Nos. 5.10 to 5.15).

### Government's Reply

"As recommended by the Committee on Public Undertakings, the Commission of Inquiry has been requested to investigate the circumstances in which the IRL/IOC spent money in excess of the sanctioned estimates in the case of Gauhati-Siliguri Pipelines." (*Vide* term (f) reproduced below:—

#### *Term of Reference*

"(f) to determine the circumstances in which IRL/IOC spent money in excess of the sanctioned estimates in the case of the GSPL Project."

As for the other recommendations contained in paras 5.10 to 5.15 of the Report, they have been referred to Ministry of Finance which is the coordinating Ministry of such matters, for taking further necessary action.

[Ministry of Petroleum & Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(1)/70-OR dt. 1st November, 1970].

**Further Information called for by the Committee**

Government may indicate the precise action taken on the following aspects of the recommendations at Serial Nos. 20 and 34:—

- (i) "The Committee expect that while examining the question of according approval to revised estimates, Government would seriously consider its effects on the economics of the project. The Committee feel that where the economics of the projects are adversely affected as a result of revised estimate of expenditure the matter should be specifically brought to the notice of Parliament without avoidable delay."
- (ii) "The Committee recommend that the circumstances under which the Undertaking was allowed to spend money beyond 10 per cent. of the sanctioned estimates without the approval of the Government should be investigated and the persons responsible both in the undertakings and the Ministry should be proceeded against."
- (iii) "The Committee regret that in no year the Demands for grants of the Ministry provided for the expenditure and for full six years Parliament was unaware of what was happening in the financial administration of the undertaking. Taking strong exception to by passing of the Parliament's financial control, the Committee recommend that in future all cases of Project Estimates/Revised Estimates should be given effect to only after Parliament has approved of the total capital expenditure on the entire Project or the revision of the project as the case may be."
- (iv) "The Demand for grants of concerned Ministries should make specific provisions regarding the capital outlay to be made for the entire period of construction of the Project initially and annual approval of the Parliament should be taken of the amount sanctioned by Parliament on principle at the Project stage."

(LSS O.M. 16-PU/68 dated 1st October, 1971)



The recommendations as contained in paras (i) to (iv) were brought to the notice of the Ministry of Finance who are the administrative Ministry for such matters and their observations as also the action taken by them are contained in Appendix VIII.

[Ministry of Petroleum & Chemicals O.M. No. 15(17)/70-OR dated 3rd November, 1971].

### **Recommendation (Serial No. 34)**

"The Committee find that the estimates of the Gauhati-Siliguri Pipeline have escalated to the extent of 25 per cent during the course of three revisions, whereas in the case of Haldia-Barauni-Kanpur Pipeline, the estimates have escalated to the extent of 15 per cent in course of two revisions. The final estimates of Haldia-Barauni Pipeline are still to be prepared. Such frequent escalations of estimates deserve, in the opinion of the Committee, the prior approval of the appropriate authority. The Committee, therefore, deprecate such unauthorised revision of estimates and commend that appropriate authorities should have been consulted and their concurrence obtained before going ahead in excess of their estimates. Revision of estimates is frequent in a large number of Undertakings. The Committee notice that the present system of control on Public Undertakings envisages a three tier system of financial control viz. (a) control of the Board of Directors, (b) Control of the Government; (c) control of Parliament. As regards (a), the Committee find that the Public Undertakings can spend upto 10 per cent of the sanctioned amount/estimates without the approval of the Government. In regard to (b) for expenditure beyond sanctioned amount exceeding 10 per cent, the Government approval becomes unavoidable. As regards (c), the Parliament's approval has to be taken on the entire scheme followed by approval of the Budget every year. The Committee strongly recommend that all public undertakings in future should obey the prescribed principles of financial control at the stages indicated at (a), (b) and (c) above. The Committee further recommend that all cases of Project estimates/revised estimates should be given effect to only after Parliament has approved of the total capital expenditure on the entire project of the revision of the Project, as the case may be. The demand for grants of concerned Ministries should make specific provisions regarding the actual outlay to be made for the entire period of construction of the Project initially and annual approval of the Parliament should be taken of the amount sanctioned by Parliament on principal at the project stage.

(Paragraph 9.21).

### Reply of Government

The principles of financial control outlined by the Committee have been referred to the Ministry of Finance for further necessary action.

[Ministry of Petroleum & Chemicals and Mines & Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dt. 1st November, 1970].

### Further Information Called for by the Committee

Government may indicate the precise action taken on the following aspects of the recommendations at Serial Nos. 20 and 34:—

- (i) "The Committee expect that while examining the question of according approval to revised estimates, Government would seriously consider its effects on the economics of the project. The Committee feel that where the economics of the projects are adversely effected as a result of revised estimate of expenditure the matter should be specifically brought to the notice of Parliament without avoidable delay."
- (ii) "The Committee recommend that the circumstances under which the Undertaking was allowed to spend money beyond 10 per cent of the sanctioned estimates without the approval of the Government should be investigated and the persons responsible both in the undertakings and the Ministry should be proceeded against."
- (iii) "The Committee regret that in no year the Demands for grants of the Ministry provided for the expenditure and for full six years Parliament was unaware of what was happening in the financial administration of the undertaking. Taking strong exception to bypassing of the Parliament's financial control, the Committee recommend that in future all cases of Project Estimates/Revised Estimates should be given effect to only after Parliament has approved of the total capital expenditure on the entire Project or the revision of the project as the case may be."
- (iv) "The Demand for Grants of concerned Ministries should make specific provisions regarding the Capital Outlay to be made for the entire period of construction of the Project initially and annual approval of the Parliament should be taken of the amount sanctioned by Parliament on principle at the project stage."

### Further Reply of Government

The recommendations as contained in paras (i) to (iv) were brought to the notice of the Ministry of Finance who are the administrative Ministry for such matters and the observations as also the action taken by them are contained in Appendix VIII).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 3rd November, 1971].

### Comments of the Committee

The Committee had recommended that "the circumstances under which the Undertaking was allowed to spend money beyond 10 per cent of the sanctioned estimates without the approval of the Government should be investigated and the persons responsible both in the undertaking and the Ministry should be proceeded against."

The Government in their reply said that as recommended by the Committee on Public Undertakings, the Commission of Inquiry has been requested to investigate the circumstances in which the IRL/IOC spent money in excess of the sanctioned estimates in the case of G.S. Pipeline. The relevant term reads as under:—

"(f) to determine the circumstances in which the IRL/IOC spent money in excess of the sanctioned estimates in the case of the GSPL, Project."

While the term of reference (f) covers the escalation in the estimates of G.S.P.L. Project, it does not cover the escalation in the estimates of H.B.K. Project. As for the estimates of HBK Project, the Committee have given their comments elsewhere.

So far as the Finance Ministry's instructions and proposals in regard to the three-tier financial control over Public Undertakings is concerned, the Committee are of the definite opinion that these instructions and proposals not only fail to fulfil the objectives of the recommendation but actually undermine the controlling and supervisory powers of the Parliament. The Committee are surprised that under these instructions and proposals the Government are trying to resile from their own guidelines which were issued by the Ministry of Finance vide their O.M. No. F:8-(16)-B/69, dated 27th July, 1970, in pursuance of the recommendations contained in the Eleventh and Fiftieth Reports of the Public Accounts Committee (Fourth Lok Sabha).

## N. DELAYS IN COMPLETION OF PIPELINES (Paras 6.9 to 6.12)

### Recommendation (Sl. No. 21)

Recommendation No. 21 and Government's reply thereto read as follows:—

"The Committee are surprised to learn from the Ministry that the various reasons that caused the delay in the construction of the pipelines were not specifically brought to the notice of Government for resolving at Government level. To them, it appears, that the "emergency" and "speed" stated to be involved in the projects was only confined to the entrusting of works to the foreign contractors without inviting Global Tenders. Afterwards, both the Undertaking and the Ministry hardly took any effective measures to expedite the completion of the project. The Committee expect the Ministry to take initiative in matters involving clearance by Government/Ministry in the interest of timely execution of vital project.

The Committee are convinced that the Ministry do not make any effective use of the reports from the Undertakings nor do they have technically qualified personnel to scrutinise them. They are of the view that the existing machinery in the Ministries is not capable of effective supervision of Public Undertakings. They recommend that the Government should appoint a Committee consisting of Management experts/Secretaries of Ministries controlling major Undertakings to evolve a proper machinery for their respective Ministries capable of exercising effective control on their Undertakings.

This Committee of Experts should also advise as to how the existing procedure of control in the Ministries could be further streamlined to enable them to have a grip on:—

1. Progress of construction of project from time to time;
2. Financial matters with specific reference to the progress of actual expenditure *vis-a-vis* the target and according to the sanctioned estimates;
3. The information received from the projects from time to time and to ensure that the materials are scrutinised, digested and co-related promptly and put up to the Secretary/Minister without any loss of time to enable them to know the true picture at any given time so that in the event of any weakness being detected prompt action is initiated by the Ministry.

4. The administrative ministries should develop a central control agency on the pattern/existing at the headquarters of Railway and Defence Ministries to deal with their respective departmental undertakings and also in existence at the headquarters of giant international enterprises after suitable adoption and modifications so that the ministries could have not only complete grip over the progress and functioning of Public Undertakings but are also furnished the information and data after proper screening and shifting.
5. Study of important areas in the Undertakings and technique including PERT SYSTEM to locate the critical areas in every Undertaking.

The Committee recommend that the proper machinery should be evolved to provide an effective leadership to the Undertaking through the medium of technically qualified cell. Unless this is achieved, the Committee are convinced that the Ministries will not be able to discharge their responsibilities to the Undertakings.

(Paragraph Nos. 6.9 to 6.12)

### **Reply of Government**

This has been referred to the Bureau of Public Enterprises which is the concerned organisation for such matters, for further necessary action. [Ministry of Petroleum & Chemicals and Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1-11-1970].

### **Further Information called for by the Committee**

Government may indicate the precise action taken by the Bureau of Public Enterprises in the matter. A copy of the detailed instructions if issued in this behalf to the Ministries/Departments/Public Undertakings, may also be furnished.

[L.S.S. O.M. No. 16-PU/68 dt. 1st October, 1971].

### **Further Reply of Government**

The recommendations as contained in the relevant paras were brought to the notice of the Ministry of Finance (BPE) who are the administrative Ministry for such matters and their observation as also the action taken by them are contained in Appendix IX.

[Ministry of Petroleum & Chemicals O.M. No. 15(17)/70-OR dated 3rd November, 1971].

### Comments of the Committee

In this recommendation, the Committee had raised some fundamental questions relating to the controlling Ministry's capacity to provide leadership to its undertakings. The Committee are of the opinion that the observations and the recommendations made by the Bureau of Public Enterprises fall far too short of meeting the requirements of this recommendation.

O. RE-ALIGNMENT (Paras 7.35 to 7.52, 9.23)

**Recommendations (Serial Nos. 22, 23, 24, 25, 36)**

Recommendation Nos. 22, 23, 24, 25 and 36 dealt with matter of laying the pipeline through coal bearing areas. These recommendations and Government's replies thereto are reproduced below:—

#### **Recommendation (Serial No. 22)**

The Committee regret to note that the entire question of laying the pipeline through the coal bearing area has not been dealt with care and caution it deserved. They note that Indian Technical opinions had been throughout against the laying of pipeline through the coal bearing area. The Mining Adviser to the West Bengal Government (on 17th September, 1963) followed by Chief Mining Adviser to the Ministry of Mines & Fuel (on 14th September, 1963) and Chief Inspector of Mines, Dhanbad (on 21st December, 1963) had emphatically and repeatedly objected to the laying of this pipeline through the coal bearing areas. The foreign technical advisers of the Corporation viz., Snam-Progetti Bechtal however, held contrary views and categorically stated that no technical difficulty of risk was involved to the pipeline or to the coal bearing areas and insisted that the pipeline should be laid as suggested by them. Ignoring the warning of the Indian experts, IRL accepted the advice of their foreign technical advisers and wrote as follows in their letter of February, 1964:—

“There will be no danger to the pipeline if it is laid in the coal mines and if any protective measures are necessary for the pipeline at certain specified points, they would be undertaken by the pipeline authorities and at the same time requested the Ministry to obtain necessary clearance from the Coal Mining experts.”

The Committee are surprised to find that Bechtels, the Consultants of IRL in their letter, dated the 20th December, 1963 confirming that the crossing of coal mining areas presents no technical difficulties to the pro-

ducts pipeline stated categorically that from their experience of construction of pipeline in coal mining areas in the U.S.A., France and Germany no difficulty has been experienced. While accepting the advice, the Committee find that Bechtel did not point out any specific instance of a place or area in a foreign country where the pipeline has been laid through the coalfields.

The Committee find that while the question of laying pipeline through Coal bearing areas was being discussed in November-December, 1963 in consultation with the Coal Mining Adviser to the Government of India, the Mining Director, Indian Refineries Limited is on record as having stated at a meeting with representatives of Bechtels and Snam regarding the location of Ruderani Terminal that "there will not be any change in the alignment of the Haldia-Barauni Section of Pipeline." This would suggest that the issue had been foreclosed at administrative level of Indian Refineries even while the discussions were going on with the Mining experts of the Government.

After the completion of project again in February, 1965 Bechtel's representative in Delhi wrote to their principles in San Francisco Officer asking for advice on the problem of laying pipelines across coalfields. The San Francisco Office replied on the 8th February, 1965 that in such matter it would be necessary to obtain the advice of a mining consultant engineer and they recommended that Shri C. J. J. Raju be consulted. The Committee find that Shri Raju in his report has *inter alia* observed that during his visit to Jharia coalfields, he found that "the safety pillars left below the township and public roadways are liable to be destroyed due to the fires in the neighbouring goafs and that cracks extended to the surface above the safety pillars were emitting smoke. Mr. Hoaffert of Bechtels in his note on the visit to the coalfields on 8th April, 1965. noticed fire on the surface." In the opinion of Shri Raju this hazard of the pipeline being exposed to hot smoke due to fire etc., the cracks cannot be ruled out. This aspect of the problem did not seem to have been given the necessary consideration by Snam's Engineers while planning the layout of the pipeline. Even when the question of advisability of laying the pipeline was questioned, both Bechtels (consultants to IOC) and Snam (Design Contractors) did not seem to have studied it in all its aspects and given the necessary advice at that stage in which case the difficulty problem could have been avoided." Shri Raju in his report also stated "that it would be desirable step to divert the pipeline or lay a new pipeline over nearby areas from coal deposits."

The Committee further find that neither Indian Refineries Limited nor Government had consulted the Geological Survey of India or asked them to prepare the section showing the outlay of coal seams along the pipeline

till Shri Raju specifically asked for the map which was prepared for the first time at his instance. Shri Raju in his report has mentioned that a number of collieries over which the pipeline passes viz., Sripur, Satram, Madhavpur, etc. have gassy fires and that in some of these collieries particularly old ones, where working has been discontinued, fires may start any time.

Shri Raju's report was discussed at a inter-Ministry meeting on 8th February, 1966 and a decision was taken to "plan for a restricted diversion of the pipeline over the worked leased held areas within the next two or three years and the pipeline permitted to be in operation till then with proper safeguards."

It was ultimately decided by the IRL Board/Government on the Report of a Survey and Design team set up for the purpose to a diversion of 96 kms., to avoid the coalfields at a cost of Rs. 195 lakhs, which was sanctioned by the Government of India on 12th May, 1967.

The Committee feel that it is indeed unfortunate that the Government disregarded the opinion of the Indian Mining Experts and completely relied upon the advice of the foreign experts for laying the pipeline through the coalfields. As the events have proved, the views of the Indian Experts have ultimately prevailed.

(Paragraph Nos. 7.35 to 7.42)

### Government's Reply

The Commission of Inquiry has been requested to report on whether, in view of the objections raised by West Bengal Government and Indian Mining Experts over the laying of the pipelines near coal bearing area, there was any carelessness and negligence in discharge of responsibilities by Government/IRL/IOC officials *vide* para (e) of Appendix I" (reproduced below):—

#### *Term of Reference*

"(e) In view of the objections raised by West Bengal Government and Indian Mining Experts over the laying of the pipeline over coal bearing area, to advice whether there was any carelessness and negligence in discharge of responsibilities by Government/IRL/IOC officials."

[Ministry of Petroleum & Chemicals and Mines and Metals (Deptt. of Petroleum), O.M. No. 15(17)/70-OR dated 1st November, 1970].



**Recommendation (Serial No. 23)**

The other point that the Committee have noted with regret is that IRL made a commitment of providing necessary protective measures in the coalfield area without examining and knowing the financial implications for such a commitment and even without knowing fully what those protective measures would be. Curiously enough, the protective measures were to cost Rs. 18 crores as against the laying of new pipelines which was to cost Rs. 2 crores. The Committee are extremely surprised to find that the IRL Government had never applied its mind to the economics of the protective measures *vis-a-vis* the expenses of laying new pipelines which is unpardonable. What surprises the Committee most is that IRL/Government before making their commitment amounting to Rs. 18 crores for protective measures never deemed it necessary to seek the prior approval of the Finance Ministry which was obligatory. (Paragraph No. 7.43).

**Government's reply**

Noted. This will also come within the purview of the Commission's inquiry, *vide* para (e) of Appendix I (reproduced below):—

- (e) In view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government/IRL/IOC Officials:

[Ministry of Petroleum and Chemicals & Mines & Metals (Deptt. of Petroleum O.M. No. 15(17)/70-OR dated 1st November, 1970].

**Recommendation (Serial No. 24)**

The Committee find that Government consulted the Burma Oil Company (Pipelines Division) in London in 1967 taking into account the fact that BOC Pipelines Division were working as consultants to Oil India in Naharkatiyan-Barauni crude pipelines. The Committee feel that the expert advice should have been sought at an earlier date so that their recommendations about the use of regulated mining practices, adoption of hydraulic and stowing etc. could be brought to the notice of the mining experts and mining concerns for consideration and allay their fears. The Committee are also of the view that the investigation Committee which was appointed in May, 1968 should have been appointed in 1963 which the Mining Advisers to the West Bengal Government and the Advisers to the Government of India had objected to the laying of pipelines through the coal bearing areas in no uncertain terms and if that was done all these lapses would not have occurred.

The Committee regret that the indifference of IRL/Government went to the extent of ignoring to ask for a third set of independent opinion before accepting the defective advice. The Committee is convinced that such gross indifference and dereliction of duty of the officials of Government/IRL, being inexcusable, impartial inquiry followed by severe punishment of guilty officials for the lapses is called for (Paragraph Nos. 7.44 and 7.45).

### Government's Reply

As recommended by the Committee, the Commission of Inquiry has been requested to advise [*Vide* para (e) of Appendix I] on whether there has been any negligence or carelessness or *mala fide* motive on the part of any of the officer of Government/IRL/IOC and their staff in the discharge of their duties assigned to them *vis-a-vis* pipeline projects." (reproduced below) :—

#### *Term of Reference*

"(e) in view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government/IRL/IOC officials."

[Ministry of Petroleum & Chemicals & Mines & Metals (Deptt. of Petroleum) O. M. No. 15(17)/70-OR dt. 1st November, 1970.]

### Recommendation (Sl. No. 25)

The main contention of the IRL in not agreeing to consider the proposal for diversion of alignment of the pipeline through the coal bearing area in 1963 and 1964 was that a decision to realign the pipeline would result in considerable delay. The Committee desire to know the estimate of the delay that would have been caused, but no precise reply was forthcoming from Government.

The Committee would like to point out in this connection the following two salient facts:—

The first contract for construction work was signed with Snam on 31st July, 1963. The first objection of the West Bengal Government Mining Adviser to the West Bengal Government to the proposed alignment of the pipeline through coal-bearing areas was raised on 18th September, 1963. The actual construction was started only in October, 1964.

It is also pertinent to recall that the Executive Project Report in the form of "drawings and specifications" came in piece-meal from 1963 till 1966 when the Project was completed.

Another reason put forward by IRL for not considering realignment of the pipeline is that it would have involved payment of damages to the contractors for down time for keeping their machines and men idle on the job. No estimate of the down time payment has been given to the Committee, but judged from the actual rate of down time payment made to the contractor for non-availability of land etc. the Committee feel that its quantum would have been far less than the cost that would have been incurred for realigning the pipeline at that stage to avoid the coal-bearing area. The least that the Committee could expect from IRL/Government was that they should have carried out a most careful appraisal of the various alternatives such as cost of realignment and payment of down time *vis-a-vis* the grave hazard of pushing the pipeline through the coal mining area against the advice of mining experts of Government. The Committee have pointed out elsewhere in the Report how the existing alignment of pipeline through the coal-bearing area is alleged to have resulted in locking up of coal reserves to the tune of Rs. 350 crores and carried an implied commitment to the tune of Rs. 18 crores on stowing works to minimise the hazard of fire in the area surrounding the pipeline.

It is, therefore, evident that in actual fact there was a time lag of over one year in the signing of the agreement and its execution which could have been used with prudence to go into all aspects of realignment and taken a decision in the overall interest of the Project.

Another fact which comes prominently to notice in this case is that complete reliance was placed by the Public Undertakings/Government on foreign companies for the preliminary Project Report, executive Project Report, engineering details, project execution, design monitoring and management supervision without exercising their right to over-see and scrutinise their actions to ensure that they were in the best interest of the country. The object reliance on foreign companies went to the extent of rejecting outright the expert advice of Government's own Mining engineers.

The Committee would like the Public Undertakings/Government to learn the lesson from this costly lapse that the responsibility for over-seeing the work of foreign collaborators should in no circumstances be compromised and that vigilance should be exercised at every stage to hold the foreign collaborators responsible for discharging their obligations under the contract faithfully. Government should also take care to make adequate provision in the agreements to safeguard their right to recover money for damages suffered or short-falls in capacity as compared to the designed capacity contracted and paid for (Paragraph Nos. 7.46 to 7.52).

### Reply of Government

Noted.

[Ministry of Petroleum & Chemicals & Mines and Metals (Deptt. of Petroleum O.M. No. 15(17)/70-OR dated 1-11-1970]

#### Further Information called for the by the Committee

Government may indicate the precise action taken in pursuance of the recommendation. If instructions have been issued to Public Undertakings, Government may furnish a copy thereof for information of the Committee.

[L.S.S. O.M. No. 16-PU/68 dated 1st October, 1971.]

#### Further Reply of Government

One of the terms of reference of the Pipeline Enquiry Commission reads as follows:—

“(e) in view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government/IRL/IOC officials.”

Furthermore, the technical aspects of the problems have been referred to a Committee of Experts headed by Shri K. S. R. Chari, Chief Technical Adviser, Department of Mines and Metal. A copy of the Resolution No. 15(85)/70-OR dated the 23rd March, 1971 appointing this Committee and containing its terms of references is enclosed. (Appendix X).

[Ministry of Petroleum & Chemicals O.M. No. 15(17)/70-OR Dated 3-11-71.]

#### Further Reply of Government

Yesterday, Shri Soundararajan, Deputy Secretary, Lok Sabha Secretariat enquired whether the report of the Expert Group appointed on the realignment/rectification of a section of the H.B. Pipeline has been received. As the undersigned has informed him, the report is still awaited and is now expected by the end of this month.

[Min. of Petroleum & Chemicals O.M. No. 15(17)/70-OR Vol. II dated 26th September, 1972].

Report of the Chari Committee was received from Government on 18th November, 1972.

### **Recommendation (Sl. No. 36)**

“Yet another aspect which has greatly worried the Committee is the object abdication of the right by the Management to oversee the design with particular reference to such vital matters as capacity and alignment to foreign companies. The dependence on the advice of foreign companies went to the extent of rejecting out of hand the expert advice of Indian engineers with the result that costly blunders were committed.”

(Paragraph No. 9.23).

### **Reply of Government**

Noted for future guidance.

[Ministry of Petroleum & Chemicals and Mines & Metals (Deptt. of Petroleum O.M. No. 15(17)/70-OR dated 1-11-1970)]

### **Further Information called for by the Committee**

Government may indicate the precise action taken in pursuance of the recommendation. If instructions have been issued to Public Undertakings Government may furnish a copy thereof for information of the Committee.

[L.S.S. O.M. No. 16-PU/68, dated 1st October, 1971].

### **Further Reply of Government**

One of the terms of reference of the Pipeline Enquiry Commission reads as follows:

“(e) in view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government IRI/IOC officials.”

Further more, the technical aspects of the problems have been referred to a Committee of Experts headed by Shri K. S. R. Chari, Chief Technical Adviser, Department of Mines and Metal. A copy of the Resolution No. 15(85)/70-OR, dated the 23rd March, 1971 appointing this Committee and containing its terms of reference is enclosed (Appendix X enclosed with Reply to Recommendation No. 25).

[Ministry of Petroleum & Chemicals O.M. No. 15(17)/70-ORD, dated 3rd November, 1971]

Report of the Chari Committee was received from Government on 18th November, 1972.

### Comments of the Committee

From the above recommendations of the Committee, one thing emerges very clearly and it is this that "it was ultimately decided by the IOC/Government on the Report of a Survey and Design team set up for the purpose, to a diversion of 96 kms. to avoid the coal-fields at a cost of Rs. 195 lakhs, which was sanctioned by the Government of India on 12th May, 1967."

The Committee had naturally expected that Government would inform them about the progress of this re-alignment. Instead, the Committee have been informed that an Expert Group was appointed on 23rd March, 1971 to "determine whether any re-alignment or rectification is necessary in the Haldia-Barauni pipeline to meet the needs of the situation." The Committee take strong exception to the Government's claim that the need to appoint this Expert Group arose from the report of the Committee on Public Undertakings.

The Committee have been informed by the Government that the need to appoint this Expert Group also arose from the Report of Shri N. S. Rau. In their recommendation No. 26, the Committee had said emphatically that the Report submitted by Shri N. S. Rau was not worth considering'. And still the Committee of Experts is sought to be justified by the Government on the basis of a report which this Committee had regarded as of dubious worth.

The Committee fail to understand why, having obtained all the expert advice and having considered the report of a survey of its own team set up for the purpose and having taken a decision for a diversion of 96 KM to avoid the coalfields and having received the sanction from the Government of India issued on the 12th May, 1967 for this purpose this decision was not implemented. The Committee hope that at least now there would be no further delay in the implementation of this decision about the re-alignment of the pipeline.

### P. CENTRAL VIGILANCE COMMISSIONER

(Paras 8.15 to 8.19.9.13)

#### Recommendation (Serial Nos. 26 and 29)

Recommendations Nos. 26 and 29 and Government's replies thereto read as follows:—

"The Committee find that when the proposal for diverting the Pipeline from the coal bearing areas for about a total length of about 93 Kms. at a total cost of Rs. 195 lakhs was sent to the Ministry of Finance for their approval and concurrence, the then Deputy Prime Minister and the Finance Minister, while approving the scheme of diversion on 6th May, 1967 remarked that "this appears to be a very bad case and had

led to a wasteful expenditure of nearly Rs. 2 crores and suggested an enquiry in the matter" with a view to fixing responsibility on the officials concerned at all levels both in the pipelines division and in the Ministry". As a result the matter was referred to the Chief Vigilance Commissioner Shri N. S. Rau on 30th June, 1967, for investigation. The appointment was approved by the Prime Minister. Although it was expected that the report would be submitted in 3 or 4 months time the report was actually submitted as late as on 16th April, 1970. Shri Rau retired as C.V.C. on 23rd August, 1968 before the submitting report on HBK pipeline. Before his retirement, however, the Secretary of the Ministry had discussions with him and he was requested to continue the investigation in his personal capacity even after his retirement as Vigilance Commissioner (the letter dated 28th August, 1968 from Shri Nayak to Shri Rau and the letter dated 21/22nd August, 1968 from Shri Rau to Shri Nayak reproduced at Paras 8.10 and 8.11 of this report may be referred).

[Paragraph 8.15]

"The Committee made enquiries as to how Shri Rau was asked to carry on the investigation in his personal capacity on his retirement as Vigilance Commissioner and at what level the decision was taken. The Ministry have given a written note that the question of Shri Rau's continuing to do the investigation was examined by the then Secretary in consultation with the then Minister and after prior approval of the Minister Shri Rau was advised to continue the investigation. The Committee have taken note of the reply given by the Minister in the Lok Sabha on 20th April, 1970 in which it has been stated:—

"Minister's written order on the date on which extension was granted is not available in our records. Subsequently however, the then Minister of Petroleum and Chemicals, has given in writing that the extension to Shri Rau was granted after taking his prior approval."

The Government has given no explanation as to why the work was not allowed to be done by Shri Rau's successor as C.V.C. The Committee are surprised that such an important appointment was made by the Secretary by taking only verbal orders of the Minister and only subsequently the written orders of the Minister were obtained. It is a fit case to be enquired into as to on what dates the subsequent orders were obtained because the Committee have noted that the Ministry failed to produce this paper before the Committee at the time of evidence when they wanted the Ministry to produce any written evidence available with them. The Committee was told that the relevant file was the C.V.C. and hence they could not produce it.

[Paragraph 8.16]

"The Committee are distressed with the manner in which the then Secretary to the Ministry of Petroleum and Chemicals was allowed to play on his own a crucial role in meeting and persuading Shri Rau three days before his retirement to continue the investigation in his personal capacity even after retirement. It is pertinent to recall that one of the subjects of enquiry was whether "any of the officials concerned with this matter in the Ministry of the Government of India and the IRL/IOC" was '*Prima Facie* callous or negligent in the discharge of their responsibilities" and what action, if any, should be taken against them. As already pointed out earlier, the post of Managing Director of Indian Refineries Ltd. at the relevant time pertaining to the enquiry was occupied by none other than the person who was then heading the Ministry of Petroleum and Chemicals as Secretary. In the circumstances, it would have evidently been more appropriate if the entire question of referring the issues raised by the then Deputy Prime Minister and Finance Minister for investigation had been entrusted by Government to the Cabinet Secretariat and necessary action taken in the matter by the Cabinet Secretary in consultation with the Minister concerned and the Prime Minister whose approval had originally been taken to entrust the enquiry to the Central Vigilance Commission. The Committee cannot resist the feeling that in persuading Shri Rau to continue with the enquiry even after retirement in his personal capacity in circumstances which are not free from doubt cannot be expected to settle the matter conclusively. The Committee feel compelled to record their fear that the whole investigation has got vitiated in the circumstances and the objective underlying it has been defeated." [Paragraph 8.17].

"The Committee feel that the work of the investigation ought to have been done by the C.V.C. and not by Shri Rau in his individual capacity. The Committee have also noted with great regret that this enquiry has been allowed to be dragged on for a number of years. Although it was stated to the Committee that the work was being done in any honorary capacity the Committee find that the enquiry has already cost the exchequer an amount of Rs. 57,000 upto 28th February, 1970+Rs. 7,500 to be paid as honorarium to a Professor of Osmania University. The Committee fail to understand that when the investigation was being done by the C.V.C. how it was withdrawn with the retirement of Shri Rau from the post of C.V.C. The Government has not given explanation as to why the work was not allowed to be done by Shri Rau's successor as C.V.C." [Paragraph 8.18].

The Committee also made enquiries as to what would be the status and force of the report submitted by Mr. Rau in his personal capacity. The Secretary in his written note has stated that "the Report would have the same force as any other report submitted under either the Commissions of Enquiry Act or by Departmental Inquiring Officer or under Arbitration



Act". The Committee do not agree with this view of the Ministry. In the view of the Committee the report submitted by Shri Rau in his personal capacity would not carry convictions nor will command the respect which a report of this nature could do when submitted by C.V.C. In view of the fact that Shri Rau's reappointment was made in a very suspicious manner, the Committee further feel that a report submitted by Shri Rau in his personal capacity, is not worth considering. The Committee would, however, also suggest that enough information and evidence are available on the basis of which the Government should proceed Departmentally as the rules may permit under the conduct Rules to take suitable action in the matter. (Paragraph No. 8.19)".

#### **Government's Reply**

"However, the Commission of Inquiry has been asked to report if this and other allied matters could, *prima facie*, warrant initiation of departmental action against the then Managing Director, Indian Refineries Limited, Shri P. R. Nayak.

[Ministry of Petroleum & Chemicals & Mines & Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1st November, 1970.]

#### **Further Information Called for by the Committee**

The Government may indicate the precise action taken by them in pursuance of the following observations of the CPU. "The Government has given no explanation as to why the work was not allowed to be done by Shri Rau's successor as C.V.C. The Committee are surprised that such an important appointment was made by the Secretary by taking only verbal orders of the Minister and only subsequently the written orders of the Minister were obtained. It is a fit case to be enquired into as to on what dates the subsequent orders were obtained because the Committee have noted that the Ministry failed to produce this paper before the Committee at the time of evidence when they wanted the Ministry to produce any written evidence available with them. The Committee was told that the relevant file was with the C.V.C. and hence they could not produce it."

It may be mentioned that the above point does not figure in the terms of reference of the Commission of Inquiry. Government may state the reasons therefor.

[LSS O.M. No. 16-PU/68 dated 1st October, 1971.]

#### **Further reply of Government**

"The matter raised in this recommendation is now covered by the new term of reference (j) of the Pipeline Inquiry Commission *vide* notification No. 28(11)/70-OR dated the 25th October, 1971 (reproduced below) :—

#### *Term of Reference*

"(j) to investigate the circumstances which led to the continuance of Shri Nitoor Sreenivasa Rau after his retirement as central

Vigilance Commissioner to enquire into the laying of a section of the Haldia-Barauni pipeline over the coal bearing areas."

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 29th November, 1971.]

### Recommendation (Sl. No. 29)

"Another aspect which has greatly worried the Committee is the halting and somewhat contradictory manner in which Government IOC have approached the probe into the affairs of the pipelines in spite of the fact that the matter has been agitated on the floor of the House through questions, including a Short Notice Question on 1st April, 1970. It is on record that the then Deputy Prime Minister and Finance Minister had given orders as early as May, 1967 that a thorough investigation should be held into the wasteful expenditure which would be incurred on the project and that responsibility should be fixed on the officials concerned at all levels in the Pipeline Division and in the Ministry. It is pertinent to recall how the appointment of the Central Vigilance Commissioner to hold the inquiry, the terms of his reference and finally entrusting Shri Rau even after his retirement as Chief Vigilance Commissioner with the task of inquiry, was allowed to be handled by an officer whose conduct, while holding earlier, the appointment of Managing Director of Indian Refineries Ltd., was in question. It would evidently have been more appropriate if the entire question of referring the issues raised by the then Deputy Prime Minister and Finance Minister for investigation had been entrusted by Government to the Cabinet Secretariat and necessary action taken in the matter by the Cabinet Secretary in consultation with the Minister concerned and the Prime Minister's approval had been taken to entrust the inquiry to the Central Vigilance Commissioner. If these elementary precautions had been taken, the Committee would not have been compelled to record their fear that the whole investigation done so far has got vitiated in the circumstances and the objective underlying it has been defeated." (Paragraph No. 9.13.)

### Government's Reply

Noted.

[Ministry of Petroleum & Chemicals & Mines and Metals (Deptt. of Petroleum) O.M. No. 15(17)/70-OR dated 1st November, 1970.]

### Further Information Called for by the Committee

Government may indicate the remedial measures taken to ensure that in future similar cases do not occur.

[LSS O.M. No. 16-PU/68 dated 1st October, 1971.]

### Further Reply by Government

The matter raised in this recommendation is now covered by the new term of reference (j) reproduced below of the pipeline Inquiry Commission *vide* notification No. 28(11)/70-OR dated 25-10-1971.

#### *Term of Reference*

“(j) to investigate the circumstances which led to the continuance of Shri Nittoor Sreenivasa Rau after his retirement as central Vigilance Commissioner to enquire into the laying of a Section of Haldia Barauni pipeline over the coal bearing areas.”

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 29th November, 1971.]

#### Comments of the Committee

The Committee would like to await the findings of the Commission of Inquiry on these issues. The Committee, however, reiterate its earlier conclusion that the report submitted by Shri Rau in his personal capacity is not worth considering whatever might have been the circumstances “which led to the continuance of Shri N. S. Rau after his retirement as Central Vigilance Commissioner to enquire into the laying of Section of the Haldia-Barauni Pipeline over the Coal Bearing Areas.” about which the Commission of Inquiry is required to investigate into.

#### Q. CONCLUSION

(Para 9.24 and 9.25)

#### Recommendation (Sl. No. 37)

The final and concluding recommendation No. 37 reads as follows:—

“The Committee are distressed to find, after a careful examination of all the papers and other evidence on record that there have been serious lapses and dereliction of duty by the then officers of IRL and the Ministry in the discharge of their responsibilities in executing the pipelines Project. The Committee have pointed out several instances where the Managing Director exceeded the authority available to him; they have noted with regret that the Board of Management and the Ministry were not vigilant enough to check firmly and in time his excessive use of authority by him (Paragraph 9.24).

“The Committee also feel compelled to record their feeling that instead of holding the officers responsible for their lapses, there appears to have been persistent effort to slur over their dereliction of duty and not to fix the responsibility though copious facts to substantiate such lapses have come on record. The Committee would therefore like Government

to take immediate steps to bring to book the guilty officers on the basis of evidence that is already available. The last, that could be done is to proceed departmentally without delay against the officers concerned under the relevant Government Servants Conduct Rules. The Committee feel that Government, in the larger interests of the public sector, should not allow a feeling to go round that officers could commit such grave lapses and indulge in dereliction of duty with impunity and go unpunished." (Paragraph No. 9.25)

### Government's Reply

As the Committee has recommended further probe on major issues, a Commission of Inquiry, under the Commission of Inquiry Act, 1952, has been constituted, and has also been asked to report on negligence, carelessness or *mala-fide* motive on the part of any of the officers of Government, IRL/IOC or their staff in the discharge of their duties, *vide* (j) and (k) of the terms of the reference reproduced below:—

- (j) to investigate the circumstances which led to the continuance of Shri Nitoor Sreenivasa Rau after his retirement as Central Vigilance Commissioner to enquire into the laying of a section of the Haldia-Barauni pipeline over the coal-bearing areas.
- (k) to advise on whether there has been any negligence or carelessness or *mala fide* motive on the part of any of the officers of Government/IRL/IOC and their staff in the discharge of their duties on any of the foregoing or other related issues, which, in the opinion of the Commission, are relevant.

The matter of a *prima-facie* case against the then Managing Director and other senior officers has also been referred to the Commission for urgent advice.

[Ministry of Petroleum and Chemicals and Mines and Minerals (Deptt. of Petroleum) O.M. 5.14(17)/70-OR, dated 1-11-1970].

### Further information called for by the Committee

A copy of the advice given by the Commission and action taken by Government in pursuance thereof, may be furnished for the information of the Committee.

The Government should furnish, for information of the Committee, five copies of the Report of the Commission of Inquiry when submitted together with Government's decisions thereon. (LSS O.M. No. 16-PU/68 dated 1st October, 1971).

### Further Reply of Government

When the matter of *prima facie* cases against Shri P. R. Nayak, the then Managing Director, IRL, was referred to Justice Takru, Chairman, Pipelines Inquiry Commission, for advice, he was also requested to let the Government have the names of any other officers who seem involved, in any of the charges which Shri Takru might assess as *prima facie* established. Shri Justice Takru was of the view that since no opportunity was afforded to other officers to have their say in the matter, it would not be fair and proper to nominate them or to mention the charge or charges *prima facie* found established against them at this stage and also added that the question whether they are actually involved in those charges is a matter which legitimately falls within the scope of the terms of reference of the Commission. This view expressed by Justice Takru that this matter should be dealt with under the main Report of the Commission was accepted. Report of Shri Justice Takru against Shri P. R. Nayak is enclosed.

The Commission of Inquiry on Pipeline could not finish its assignment within the period ending 31st August, 1971 and sought extension of its tenure for a further period of six months. Accordingly, after careful consideration of the Commission's request, its tenure has been further extended upto 29th February, 1972. The tenure has been further extended by Government upto 31st August, 1973.

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR dated 3rd November 1971].

### Further Information Called for by the Committee

Results of Departmental enquiry, conducted and details action taken, if any, on the basis of Report of Shri J. N. Takru, Chairman, Pipelines Inquiry Commission in the matter of the preliminary enquiry against Shri P. R. Nayak may please be intimated.

[LSS O.M. No. 16-PU/68 dated 26th May, 1972].

### Further Reply of Government

A brief note on departmental proceedings against Shri P. R. Nayak, I.C.S. (Retd.), received from the Department of Personnel is enclosed. (Appendix XI).

[Ministry of Petroleum and Chemicals O.M. No. 15(17)/70-OR (Vol. II) dated 28th June, 1972].

Later, the Delhi High Court in their judgment dated 17th January, 1973 on Civil writ No. 464/72 filed by Shri P. R. Nayak directed the deletion of term (i) of the terms of reference (*i.e.* new term 1).

### Comments of the Committee

In this recommendation, the Committee were compelled to 'record their feeling that instead of holding the officers responsible for their lapses, there appears to have been a persistent effort to slur over their dereliction of duty and not to fix the responsibility though copious facts to substantiate such lapses have come on record.' The Committee had also desired that Government should take immediate steps to bring to book the guilty officers on the basis of evidence that was already available. The Committee felt that 'Government, in the larger interests of the public sector should not allow a feeling to go round that officers could commit such grave lapses and indulge in dereliction of duty with impunity and go unpunished.'

From the records made available to the Committee they find that the Ministry had requested Justice Takru to find out if prima facie case existed and in case it did, to frame charges against Mr. P. R. Nayak, Managing Director, I.R.L. Justice Takru submitted his findings to Government in January, 1971 and Shri Nayak was placed under suspension on 23rd March, 1971 on the ground that "disciplinary proceedings against him were contemplated." Shri B. R. Tandon, Special Commissioner for Departmental Enquiries in the Central Vigilance Commission, was appointed Inquiry Officer on 17th August, 1971 to enquire into the charges against Shri Nayak. The Inquiry Officer submitted the Report on 30th November, 1971.

Meanwhile Shri Nayak went to the Supreme Court who in their judgment dated 7th December, 1971 quashed the order of his suspension. The effect of quashing by the Supreme Court of the order of suspension was that "Shri Nayak was deemed to have retired". The disciplinary proceedings against Shri P. R. Nayak have, therefore, lapsed in the circumstances. Now the Government do not know how to proceed against Shri Nayak. The

Committee would like to point out that the manner in which Government have proceeded with this case gives an impression that Government did not share the sense of urgency which was pronouncedly marked in their 66th Report. More than 2½ years have elapsed since the Committee presented their Report and the Committee cannot but express their apprehension that because of this inordinate delay, the officials who were involved in the serious irregularities and lapses pointed out by the Committee in their 66th Report on I.O.C. (Pipelines Division) may go scot-free. The Committee would, therefore, strongly recommend that Government should guard against any further delay.

The Committee find that in an application filed before the Takru Commission on 30th March, 1972 on behalf of the Ministry of Petroleum & Chemicals, it was stated:—

“Para 18: The PUC merely recorded a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved into the two contracts. The word ‘feeling’ is significant. PUC has not formed an opinion.”

The Committee take strong exception to this deliberate misrepresentation of their recommendations. What the Committee expressed was not “mere” a feeling but a conviction born out of facts narrated in the report. The Committee note that the following extract from an affidavit dated 1st July, 1972 filed by Shri S. S. Khera, ICS (Retd.) before the Commission was read out by an M.P. in Lok Sabha on the 13th December, 1972:—

“I received a letter from Shri Nayak dated 27th February, 1971 as follows:—

“I am grateful to you for your ready response to my request today. Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a Report in April, 1970 questioning the decisions and bona fides of Government. . . . . etc.”

[L.S. Debates Cols. 211 and 212, dated 13-12-1972]

The Committee need hardly point out that the recommendations made by them in their 66th Report on IOC (Pipelines Division) were based on the evidence taken by them of the representatives of Indian Oil Corporation and the Ministry of Petroleum and Chemicals and Mines and Metals,

Department of Petroleum and the further material relating to the IOC supplied to them from time to time. The Committee, therefore, take strong exception to the allegation that the Parliamentary Committee on Public Undertakings were induced to write a report in April, 1970 questioning the decisions and bona fides of Government.

The Committee note that these statements had figured in the Lok Sabha on 18th April, 1972 and on 13th December, 1972 and the Speaker was pleased to refer these questions to the Privileges Committee.

The Committee expect the Government to defend and pursue their recommendations contained in their 66th Report of the 4th Lok Sabha (1969-70), on Indian Oil Corporation (Pipelines Division) in letter and spirit before the Commission of Enquiry with the same sense of urgency that was markedly evident from the above Report and for this purpose, the Government should consider the desirability of being represented forthwith by the Attorney General of India before the Takru Commission so that true perspective of the recommendations are clearly brought before the Commission and the complete facts of the cases dealt with in the report may be established enabling the Government to ensure that none of the guilty officials goes unpunished.

NEW DELHI;  
April 10, 1973.

Chaitra 20, 1895 (Saka).

SUBHADRA JOSHI,  
Chairman,  
Committee on Public Undertakings.



## APPENDIX I

(To be published in the Gazette of India, Part I, Section I)

GOVERNMENT OF INDIA

MINISTRY OF PETROLEUM AND CHEMICALS

AND MINES AND METALS

(DEPT. OF PETROLEUM)

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*New Delhi, the 22nd August, 1970.*

### RESOLUTION

No. 28(II)/70-OR.—The Government of India have decided to set up a one-man Commission under the Commission of Inquiry Act, 1952, headed by Shri (Justice J. N. Takru), Retired Judge of Allahabad High Court.

2. The terms of reference of the Commission will be as follows:—

- (a) (i) to determine whether any payment to Bechtels (as Design Engineers and overall Supervisors in Gauhati-Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment justified?
- (ii) was the induction of Bechtels into the aforesaid projects malafide, and were they shown any undue favour by officials of the IRL/Government.
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.
- (c) whether the then Managing Director, IRL, acted on his own bypassing the Board of Directors in his dealings with Snam and Bechtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur Pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline.

and whether negligence or improper motive is substantiated against the MD, IRL, for not bringing these to the notice of the Board/Government in particular, whether the General Manager and MD were perfunctory and casual in dealing with an important communication of the 26th September, 1963 from Bechtels to IRL mentioning the design capacity of Haldia-Barauni Pipeline as 1.9 million per year.

- (d) to investigate the circumstances in which the sanction for the total project cost of HBK pipeline was not issued by Government and whether there was any loss to the public interest as a result.
- (e) in view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the Pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government|IRL|IOC officials;
- (f) to determine the circumstances in which the IRL/IOC spent money in excess of the sanctioned estimates in the case of the GSPL Project;
- (g) to investigate the circumstance under which IRL/Government awarded the construction contracts for Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipelines to Snam-Saipem on negotiated basis without calling for global tenders;
- \* (h) whether the Snam-Saipem was shown any undue favour by officials of Indian Refineries Limited or Indian Oil Corporation or the Government, in connection with the award of the aforesaid contracts and in connection with the execution of the Gauhati-Siliguri and Haldia Barauni-Kanpur pipeline projects under the aforesaid contracts.
- \* (i) to investigate the circumstances that caused considerable delay in the completion of Haldia-Barauni-Kanpur Pipeline Project;
- \* (j) to investigate the circumstances which led to the continuance of Shri Nittoor Sreenivasa Rau after his retirement as Central Vigilance Commissioner to enquire into the laying of a section of the Haldia-Barauni pipeline over the coal-bearing areas.

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\*Inserted *vide* Notification dated 25th October, 1971.

- (k) to advise on whether there has been any negligence or carelessness or *mala fide* motive on the part of any of the officers of Government|IRL|IOC and their staff in the discharge of their duties on any of the foregoing or other related issues, which, in the opinion of the Commission, are relevant;
- (l) arising out of (k); to recommend further action, if any, that must be taken against particular officials whose conduct is assessed as meriting this; and
- (m) generally, to report on any other matter that is relevant, in the opinion of the Commission.

3. The Commission will devise its own procedures. It may call for such information and take such evidence as it may consider necessary. The Ministry/Departments of Government of India will furnish such information and render such assistance as may be required by the Commission. The Government of India trust that the Government of West Bengal and all other concerned will extend their fullest co-operation and assistance to the commission.

4. The Commission will submit its report within a period of \*six months.

5. The Headquarters of the Commission will be at New Delhi.

### ORDER

Ordered that the Resolution be published in the Gazette of India, Part I, Section I.

Ordered also that a copy of the Resolution be communicated to all Ministries/Departments of Government of India, Government of West Bengal and all others concerned.

Sd./- P. N. MANGAT RAI,  
Social Secretary to the Government of India.

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\*The term of the Commission has been extended by Government to 31st August, 1973.

## APPENDIX II

No. 2(75)/68/BPE(GM)

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
BUREAU OF PUBLIC ENTERPRISES  
New Delhi, the 23rd April, 1968

### OFFICE MEMORANDUM

SUBJECT: *Procedure for scrutiny of project proposals.*

In the context of the imperative need for proper preparation and adequate scrutiny of the proposals for projects, certain procedures have already been laid down in letter No. 1942/DPM/67, dated the 3rd August, 1967 from the Deputy Prime Minister and letter No. 3213-S(IPF)/67, dated the 5th August, 1967 from the Secretary Expenditure. For facility of reference those procedures which envisages the following three distinct stages prior to the according of final sanction for all new projects or expansion schemes are summarised below:—

(i) *Formulation of project*:—Projects are generally formulated by the administrative Ministries when the Five Years Plan is being drawn up, but in some cases new projects take shape also during the plan period. This stage should normally begin as so the sectoral programmes in the Plan are settled and should generally conclude with the commissioning of one or more feasibility studies. Besides the administrative Ministry (which should take the initiative) the Planning Commission and the Finance Ministry are also vitally concerned with initial stage of project formulation, when the need for additional investment in the public sector has to be established and the scope for such investment is determined in broad terms. The Department of Expenditure and Economic Affairs in the Finance Ministry both being concerned with project formulation, a joint unit, functioning for this purpose in the Finance Ministry, with one joint Secretary in the Department of Economic Affairs and Director (Capital Budget) in the Department of Expenditure, is associated in all discussions, preliminary studies etc., undertaken by the Ministries at the planning stage of new projects. When it is decided that feasibility study is to be commissioned, the approval of the Financial Adviser is sought for the expenditure involved.

(ii) *Preparation of Feasibility Study*:—Since the studies about the economic, commercial and financial aspects of projects are essential prerequisites for sound investment decision, the absolute need for the preparation of feasibility studies as thoroughly as possible on the lines indicated in the Planning Commission's Memorandum "Feasibility studies for Public Sector Projects" has been emphasised. Such feasibility study will normally be the basis on which an investment decision can be taken by Government. The feasibility study will be referred by the administrative Ministry (enclosing at least four copies) to the Financial Adviser, who will be the focal point for all reference from this stage, and who will be responsible for arranging such consultations, as may be necessary, with other parts of Finance Ministry including Department of Economic Affairs and Bureau of Public Enterprises.

If particular sources of external credit have to be explored for financing the project in question, the Department for Economic Affairs, in the appropriate Division, is to be consulted by the administrative Ministry, keeping the Financial Adviser informed, when a feasibility study has been accepted, and investment approved in principle, clearance could be given for preliminary expenditure pending the preparation of the detailed engineering designs and cost estimates.

(iii) *Preparation of a Detailed Project Report*:—Where the feasibility study gives sufficient information as indicated in the Planning Commission's Memorandum, there may be no need for a separate DPR. Otherwise after the acceptance of feasibility study and approval of the investment, in principle, the DPR is to be commissioned or detailed engineering done the cost estimates prepared separately, depending upon the circumstances of the case. The sole point of scrutiny of DPR or detailed cost estimates will again be the Financial Adviser, who may, however, consult the Bureau or any other agency.

2. After the above three stages, formal expenditure sanction to the project as a whole will be given on the detailed cost estimates. Once such sanction has been given, the project authorities can incur expenditure according to the approved estimates and the capital budget for the year, without further reference to Government.

3. As a supplement to the instructions of August, 1967, the following procedures are also laid down, with a view to further streamlining the procedure for the formulation and scrutiny of project reports/feasibility studies:—

- (a) At the project formulation stage, the investment decision, in principle, should be taken in case of each project at a meeting convened by the Secretary of the Administrative Ministry.

Besides, the Secretaries of the Ministries of Finance and the Industrial Development, Secretary, Planning Commission should also be associated. The Administrative Ministry should in each case prepare and circulate in advance a summary of the proposal.

- (b) This meeting should also take a decision on whether foreign collaboration or consultancy is required and the machinery for preparing the feasibility study.
- (c) In finalising foreign collaboration terms, if this is being sought, the present procedure for consideration of such agreements, above specified limit, by the Negotiating Committee should continue.
- (d) Where the Project Report (or feasibility study) is not to be prepared by the foreign/Indian Consultants, the administrative Ministry should set up a team for preparing it.
- (e) In case of all major projects/expansions, the feasibility study should give to the fullest extent possible the details required in the Planning Commission's Manual and specially cover the main points indicated in the Annexure.
- (f) The Bureau of Public Enterprises assists in the scrutiny of feasibility/Project Reports, but in the present stage of its organisation, it is hardly in a position to associate itself with the preparation of such reports. However, the Bureau can assist in the drawing up of DPR/feasibility studies in so far as they relate to construction and financial (as distinct from technical) aspects. It will also be relevant to point out that there are a number of consultancy organisations existing in the country, both in the public and the private sectors. As regards the information about existing capacities, both in the public and the private sectors reliance should be placed on the Directorate General of Technical Development.
- (g) On receipt of feasibility study, the administrative study Ministry should send sufficient copies to the Finance Ministry, Planning Commission and other Ministries concerned together with a summary of the information required for financial examination. Once the respective views have been formulated the Secretary of the administrative Ministry concerned, may, if necessary, call an *ad hoc* meeting of the Secretaries of the Ministries concerned (including the Finance Ministry) to record differences.

- (h) If fundamental differences still exist the unresolved issues should be presented if necessary, to the Cabinet or appropriate sub-committee of the Cabinet. Reference of such issues to another Committee of Secretaries is not necessary.
- (i) With the enforcement of the system of scrutiny of investment proposals at the three stages of formulation, feasibility study, and DPR/Detailed engineering costs, the Expenditure Finance Committee procedure would no longer be necessary.

4. The above procedure will apply to all fresh projects, including the Public Enterprises of the Ministry of Defence (other than Ordnance Factories and Units catering only for the Defence Forces) and expansions. In the case of projects or expansion schemes, which are already being processed, this procedure need not be applied, unless the administrative Ministries themselves so desire.

Sd./-

P. K. BASU, 23-4-68.

*Director, Bureau of Public Enterprises.*

To

All Ministries/Departments of Government of India.

Copy to:

- (i) Secretaries to Government of India (by name).
- (ii) Adviser (P)/Adviser (C)/Adviser (F)/DS (I&R), in the Bureau of Public Enterprises.
- (iii) F.A.s in the Deptt. of Expenditure.

## **ANNEXURE**

### ***Main points to be covered in a Feasibility Report***

#### ***1. Demand Study***

Requirements as estimated for the 5 year plan period, present and anticipated production, present imports exports potential, Price elasticity, Pattern and location of demand, time phasing of demand.

#### ***2. Technical Features***

Process selection, Plant size, Raw Material requirements, Product-mix.

#### ***3. Location***

In relation to raw materials, in relation to market, Transport, Water Supply, Power etc., facilities available, Alternative locations, study and comparative advantages, Detailed site Studies undertaken.

#### ***4. Project Estimates (Capital Cost)***

Construction cost (as at page 112 of the Manual), Foreign exchange component of capital cost, giving details of inescapable imports of plant and equipment.

#### ***5. Project Estimates (Operation and Production Costs)***

Working capital (as at page 117 of the Manual), Direct costs of production, overhead or indirect costs, depreciation and residual value.

#### ***6. Profitability and Cash Flow Analysis***

Pages 128 to 130 of the Manual, Application of investment criteria

#### ***7. Cost-Benefit analysis***



## APPENDIX III

No. 3(6)/66/70-BPE(IC)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

BUREAU OF PUBLIC ENTERPRISES

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New Delhi, the 24th July, 1971

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### OFFICE MEMORANDUM

SUBJECT:—*Maintenance of contemporaneous record of negotiations leading to conclusions of agreements/contracts.*

The Committee on Public Undertakings in Recommendations No. 11 of their 66th Report on India Oil Corporation, (Pipelines Division) have observed as follows:—

“The Committee take a serious view that important records of IRI, particularly papers, indicating the stages of processing of the contract documents at the various levels of management are not available and are reported to be missing. The loss of such vital documents cannot be treated with complacency. What amazes the Committee most is that no record was kept of those discussions at various stages which led to the finalisation of the contractual matters. \*\*\*The Committee cannot resist the impression that the negotiations were not carried out with intelligence or care otherwise how else can the defective nature of the agreements with foreign companies be explained. \*\*\*The Committee would like the Government to take very serious notice of this lapse on the part of those who are entrusted with the negotiations and take suitable action against them.

The Committee would also like Government to issue standing instructions in consultation with the Ministry of Finance and the Comptroller and Auditor General of India, the manner in which contemporaneous records of such negotiations should be kept for future reference.”

The necessity of proper maintenance and preservation of contemporaneous records needs no emphasis. Public Enterprises should cause to have a faithful and true record of all discussions and minutes of meetings, negotiations, etc., which ultimately lead to the finalisation of contracts, agreements and such other important documents. These should be properly attested and maintained preferably in the same manner in which the minutes of the Board meetings are recorded and maintained under the Companies Act.

These records are also required to be maintained for adequate period for any future reference. In this connection the instructions listed in Annexure I may *inter alia* be adopted by the public enterprises.

Ministry of Industrial Development, Petroleum and Chemicals etc. are requested to bring the contents of this O.M. to the notice of all undertakings under their control for their guidance and compliance.

Sd./-

Y. P. PASSI,

*Director.*

To

All Ministries/Departments of the Government of India.

Copy to:—

1. The Comptroller and Auditor General of India.
2. Adviser (Construction)/Adviser (Finance)/Production Division/  
Director (I&R)/D.S. (Coord.), Bureau of Public Enterprises.
3. All Heads of Divisions in the Department of Expenditure.
4. All Chief Executives of Public Enterprises.

## ANNEXURE I

The following shall on no account be destroyed:

- (i) records connected with expenditure which is within the period of limitation fixed by law.
- (ii) records connected with expenditure on projects schemes or works not completed although beyond the period of limitation fixed by law.
- (iii) orders and sanctions of a permanent character until revised.
- (iv) files containing papers which are important or likely to become important in future, however, indirectly as sources of information on any aspect of history whether political, social, economic etc. or which are or may in future, prove to be of biographical or antiquarian interests.

2. The following shall be preserved for not less than the period specified against them:

- (i) files, papers and documents leading and relating to contracts and agreements etc.
  - (a) 5 years after the Contract/agreement is fulfilled or terminated, or
  - (b) in cases where audit objections have been raised, the relevant files and documents shall not in any circumstances, be allowed to be destroyed till such time as the objections have been cleared to the satisfaction of the audit authorities or have been reviewed by the Committee on Public Undertakings, or
  - (c) in the case of disputed contract till the dispute is settled either mutual or through a Court of Law or arbitration whichever is later.

3. In the matter of retaining the records, account books contract agreements and all other important documents, the instructions issued by the Department of Company Law Administration *vide* letter No. 8/14 (209)/6/PR-A, dated 11th July, 1961, (copy enclosed for ready reference) and sections 148, 149 of the Income Tax Act, 1961 should be kept in view and complied with.

**ANNEXURE II**

No. 8/14(209)/61-PR.

**MINISTRY OF COMMERCE AND INDUSTRY**

**DEPTT. OF COMPANY LAW ADMINISTRATION**

**Reserve Bank Building, Parliament Street, New Delhi.**

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*Dated the 11th July, 1961*

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**From**

Shri F. N. Sanyal,

Under Secretary to the Govt. of India.

**To**

The Secretary,

The Ali India Manufacturers' Organisation,

4th Floor, Cooperative Insurance Building,

Sir Pherozechah Mehta Road, Fort,

Bombay.

**SUBJECT:** *Preservation of books of account under section 209 of the Companies Act, 1956.*

**Sir,**

With reference to your letter No. PLB/2626 dated the 17th June, 1961 I am directed to say that having regard to the fact that sub-section (i) of Section 209 of the Companies Act requires a company to keep books of account with respect to the matters in respect of which receipts and expenditure take place and that the books of account would not be of much use without the vouchers, records, papers etc. on the basis of which such books have been prepared, this Deptt. is of the view that such vouchers, records, papers etc. should also be preserved for eight years.

2. I am to add that this Department has carefully considered the possibility of hardships in certain cases, but regrets that as the lawstands at present it is necessary to preserve the vouchers as long as the books of account to which they are related are required to be kept.

Yours faithfully,

(Sd.) F. N. SANYAL,  
*Under Secretary to the Government of India.*

APPENDIX IV

LIST OF CONTRACTS

Contract	Reference and date on which Government sanction issued	Date on which contract signed
046 (Barauni Refinery)	Min. of Steel, Mines and Fuel letter No. 12(3)/16-OR dt. 13th June, 1971.	16th June, 1961
7532/1 (Barauni Expansion)	Min. of Pet. & Chemicals letter No. 12(15)/64-PR dt. 11th January, 1965.	11th January, 1965
7533/1 (Gujarat Expansion)	Min. of P&C letter No. 11/9-64-OR dt. 15th December, 1964.	16th Dec., 1964.
Contract with SNAM SAIPEM for the construction of Gauhati Siliguri Pipeline.	Formal sanction for execution the contract was communicated in the Govt.'s letter No. 31/6/62-ONG dt. 21-1-1963.  Letter No. 31/6/62-ONG dt. 10-1-63 from Govt. to IRL advising IRL to "go ahead with the contractual arrangements to be made with SNAM".	15-1-1963
ONGC Contract with SNAM for drilling in Ganga Valley.	Formal sanction was issued on 21-12-1962 (The approval of the Ministry of Finance was accorded on 10-12-62 and the Ministry had asked ONGC on 11-12-62 to take necessary action).	17-12-62

## APPENDIX V

ENGINEERS INDIA LIMITED

(A Govt. of India Undertaking)

Allahabad Bank Bdg. (3rd Floor)  
17, Parliament Street, New Delhi-1.

May 31, 1971.

The Ministry of Petroleum and Chemicals &  
Mines & Metals (Deptt. of Petroleum)  
Government of India,  
Shastri Bhavan, New Delhi.

Attn. Shri Vinod Kumar, *Deputy Secretary.*

Dear Sir:

REF: *Shri R. K. Sinha's D.O. Letter No. 15(43)/70-OR, dated 14-9-1970  
and letter of even number dated 20-10-1970.*

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We have studied the 66th Report of the Committee on Public Undertakings, with specific reference to paras 3.99 and 3.100. The above paras call for examination of the following:

- (1) The agreement entered between M/s. Indian Oil Corporation and Snam Progetti with regard to the payment of compensation by Snam Progetti as part of their liability towards increasing the capacity of the pipeline to two million tons per year.
- (2) To ensure that the full damages have been recovered from Snam Progetti for the proved deficiency in the capacity as compared to the Commissioned capacity.

With regard to para (1) our comments are as follows:—

1. We have studied the hydraulic gradient DIS GB-0742 submitted by Snam. From this it is very evident that based on a low rate of 255.M3/hour, working for 8760 hours in a year (which

means round the clock throughout the year), you can pump only 1.94 M. tonnes per year. This is true for Kuwait crude of specific gravity 0.37 and with a safety factor of 1.54. The total tonnage pumped in a year would be even smaller when Aghajari crude is pumped. Therefore, there is a shortfall in the design capacity of 2x10<sup>6</sup> tons per year.

2. Snam, we believe, had agreed to design the pipeline based on a factor of safety of 1.76 and on a total of 8,000 hours of pumping to be done.
3. To achieve the above conditions the revised hydraulic gradient prepared by IOC has been checked by us and we agree that it is possible to achieve 2 million tonnes/year on the basis of modifications/changes suggested by IOC, which are as follows:
  - (a) Provision of now 550 H.P. Booster pump station between Barauni & Assansol. This will ensure a flow rate of 293 M<sup>3</sup>/hour or 2 million tonnes/year of Aghajari Crude.
  - (b) Modification/changes at; in addition to (a)
    - (i) Haldia pumping station-installation of suction booster and modifications for engines and pumps;
    - (ii) Engine pump modifications for Booster No. 2; and
    - (iii) Only pump modifications at Asansol pump station.

As regards para (2) our comments are as under:

As far as the cost are concerned, Snam have agreed to pay in respect of the Haldia-Barauni Pipeline section, sum of (1 U.S. dollars 1,75,200 and (2) Rs. 14,62,000. The above cost refer to the changes and modifications in the design of the existing pipeline to be carried out for increasing the throughput to 2 million tonnes per year.

We have examined the estimates and other costs involved in the above modifications and we believe that the cost recovered from M/s. Snam Progetti towards bringing the pipeline capacity to 2 million tons is reasonable. To confirm certain costs on the above installation, we have seen the quotations received by IOC in this regard. Additionally, we have noted that the escalation on material and equipments has been taken as 10 per cent on the prices prevailing in 1964. Based on the published average of 14 per cent between 1964 and 1968 has been noticed. However, the extra 4 per cent. Prices, we feel could be met with from the excess money available on account of increase in customs duty assumed in the estimates (Customs duty of 27½ per cent is normally levied on Government projects whereas the estimates of IOC show 50 per cent).



Ever since the agreement, it may be noticed that more than two years have passed and by the time the recommendations become a reality, there may be further increase on account of escalation in respect of equipments, material and labour.

We hope you will find our comments useful.

Very truly yours

(Sd.) S. K. N. S. DIXIT,

*For Chairman and Managing Director.*

## APPENDIX VI

A copy of the Advice tendered by Shri A. A. Peer-Bhoy.

### HALDIA-BARAUNI PROJECT PIPELINE

My opinion is sought on the advisability of an action in damages for breach of contract by SNAM PROGETTI of Milan. The basis of the proposed action being that the design conception prepared by them was not capable of carrying two million tonnes of crude thruput from Haldia to Barauni. My opinion is also sought whether Bechtel of San Francisco who were appointed as our agents to supervise and advise the Indian Refineries Ltd. on the design and set up of the pipeline have also been negligent in their duty as agents and whether they are liable in action for damages.

In order to understand the full legal position, it is necessary to understand the correct facts.

In or about 1962 negotiations commenced with SNAM PROGETTI of Milan for the purpose of designing the Project pipeline between Barauni and Kanpur and Barauni and Haldia. The purpose of this pipeline was to carry the product from Barauni to Haldia and crude from Haldia to Barauni. The negotiations fructified in an agreement and a project design description was prepared and forwarded to us dated 26th February, 1964 under the signature of SNAM. This is the basis of an offer by SNAM PROGETTI which was accepted by the IRL and this resulted in a binding agreement. Under the aforesaid project design description, it was provided that HALDIA-BARAUNI pipeline, for which design was prepared would be capable of carrying 2 million tonnes of crude oil from Haldia to Barauni. This was the basis on which the IRL accepted the Project design description and which was ultimately executed and construction carried out and pipeline laid. It may be mentioned that in or about the same time the IRL appointed Bechtel of San Francisco as their agents in all matters pertaining to the design and the construction and the setting up of the pipeline. I shall deal with the contract with Bechtel and the Various clauses which are relevant for the purpose of this opinion little later on.

I am given to understand that this pipeline on the basis of the project design description was taken in hand in 1964 and completed in or about early 1967. It may be mentioned that Bechtel differed in the Project design description from the original conception prepared by SNAM PROGETTI. As a result of mutual discussion, an agreed compromise

conception was prepared in 1963 and Bechtel, on behalf of IRL, agreed to the compromise conception which was fully agreed to as compromise conception by SNAM PROGETTI. No provision or reservation was made by Snam while accepting the compromise conception as worked out between SNAM PROGETTI and Bechtel. It may be useful to bear in mind here that one of the clauses of the contract with Bechtel provides that Snam alone will be responsible for the design and that no part of the responsibility for the design conception will be on Bechtel. In token of the acceptance of the compromise, Bechtel approved the design of Snam by their endorsement dated 18th November, 1963 on drawing No. 114/O/B prepared by Snam which is dated 31st October, 1963. Bechtel however, have written to Snam and a copy of that letter has been sent to us in which they have stated that they are not responsible for the design work.

On completion of the pipeline, it was found that the pipeline was capable of carrying only 1.774800 million tonnes, of crude from Halida to Barauni every year and not 2 million tonnes as agreed to in the project design description. I am given to understand that SNAM PROGETTI have orally accepted that the pipeline is not capable of carrying two million tonnes of crude. By their letter dated 31st August, 1967, they have admitted that even if the pipeline is worked for 8760 hours per year, the maximum throughput will only be 1.940 million tonnes per year. The working of pipeline for 8760 hours every year is not a practical proposition and does not conform to the practice and custom prevalent in other pipelines all over the world. From our practical experience which can be proved in any court of law, the pipeline is capable of 1.7748 million tonnes every year and in any event on the basis of admission of SNAM PROGETTI, that even if worked to the maximum possible capacity of 8760 hours, it can carry only 1.94 million tonnes every year. Therefore, there is a shortfall in the contractual quantity and actual quantity that can be pumped.

It is, therefore, clear that the project design description on the basis of which the pipeline construction was carried out there is a shortfall in the contractual quantity. There is, therefore, a breach of contract and therefore SNAM PROGETTI would be bound to make good this shortfall and on their failure to do so, they would be liable for action in damages.

I must here mention that the stand taken by SNAM PROGETTI in their correspondence is that the two million tonnes capacity was to be "under emergency condition." They have taken up this stand in their correspondence but there is no mention of such a condition in the original project design description which is the basis of the agreement, nor do we find this emergency condition in the compromise conception prepared as a result of negotiations and discussion between SNAM PROGETTI and Bechtel. In our letter dated 21st July, 1967 we have called upon SNAM PROGETTI to tell us where this qualifying clause that only under emergency condition

two million tonnes should be pumped could be found. From the correspondence in the file, I am unable to find any letter in reply by SNAM where the emergency condition conception has been made a part of the execution of the contract between the parties I do not know whether there was any oral understanding between Snam and IRL or IOC as successor company that two million tonnes will be carried only in an emergency.

In the absence of any such qualifying clause, it is very clear that the contract laid down a capacity of two million tonnes which has not been carried out and the pipeline as laid is incapable of carrying two million tonnes of crude from Haldia to Barauni. Even assuming that the pipeline is worked for 8760 hours as urged Snam—I assumed that we can disapprove this proposition—it is clear that there would be shortfall of 60,000 tonnes in the carrying capacity of the pipeline. Therefore, in any event there is a short-fall for which Snam would be liable for having failed in fulfilling their contractual obligations completely.

Under the contract Act, contracting party is under an obligation to carry out his obligation and as Snam Progetti have failed in setting up a pipeline capable of carrying the contractual quantity of two million tonnes every year, I am of the opinion that the IOC would be justified in bringing on action for breach of contract and claim damages. The damages being the amount required in order to make the pipeline capable of carrying two million tonnes of crude from Haldia to Barauni. I am given to understand that there is no formal contract entered into with Snam but the agreement is based on conception of the project design description dated 26th February, 1964 and our acceptance of that project design description by a letter. Besides, the said project design description has been checked and approved under the signature of Bechtel who were the agents of IRL. Under the circumstances, there can be no question that there was a binding contract between SNAM PROGETTI and the IRL. In any event, the said project design description has been executed by laying the pipeline and the contract has been fully performed. I am point out that in order to succeed in a court of law it may be necessary for the IOC being the successors to IRL, to prove that this pipeline as laid is not capable of carrying two million tonnes of crude from Haldia to Barauni. We will have to strictly prove this aspect of the case. An admission is made by SNAM PROGETTI by their letter dated 13th August, 1967 that it can only carry 1.94 tonnes after working 8760 hours every year. The IOC can rely on this admission.

It seems that there is also a deviation in the safety factor of the Barauni-Haldia pipeline in project design description dated 26th February, 1964. There is no mention of safety factor but I am given to understand that in consequent discussion and the concept put up by SNAM PROGETTI the safety factor provided was 7.26. But Bechtel's concept of safety factor was 1.54. After negotiation and discussion between SNAM PROGETTI and

Bechtel in the final concept the safety factor provided was 1.76. I am given to understand that the pipeline as constructed, the safety factor in fact is 1.54. The safety factor of 1.76 was provided by Snam in the agreed formula. This may also be the basis of a breach on the part of the Snam. What consequences the lessening of the safety factor would entail is for our technical experts to ascertain, but we could also base a claim for a breach of Contract under this head and claim damages on this ground also.

I may sound a note of warning that the possible defence which can be visualised from the correspondence would be on the basis of emergency operation. The IOC must be able to repel such a defence.

Though, I am of the opinion that we have a cause of action against SNAM PROGETTI, I would certainly advise the IOC to carry on negotiations from a position of strength and in view of the past relations with Snam and in view of the long delay and heavy costs that would entail in an action of this nature, I would certainly advise that some kind of compromise should also be borne in mind. I hope Snam may be compelled or persuaded to undertake rectifying measures at their own costs or part of the costs to be paid by IOC, to put things right.

As regards, Bechtel, I find that there is a contract dated 1st Sept, 1963 between IRL and Bechtel International Corporation.

This is a contract under which Bechtel were acting as agents of IRL in respect of Haldia-Barauni-Kanpur Project Pipeline. Though Section 212 of the Contract Act provides that an agent is bound to conduct himself with such skill for which he is appointed an agent, I find under Clause 2-B of the contract, a provision to the effect that "engineering design, material fabrication, construction and start of the Haldia-Barauni-Kanpur Project." is the responsibility of SNAM PROGETTI or SAIPEM, and that Bechtel will have no responsibility except as expressly provided therein. Under the circumstances, we cannot hold Bechtel responsible for any defect in the engineering design, which I am given to understand is the cause of the shortfall in crude throughput.

Under the circumstances, I am of the opinion that they will not be able to take any action against Bechtel as the defects seem to be in the design for which Bechtel are not responsible.

I may add that though Bechtel agreed to the design by Snam by their endorsement dated 18th November 1963, on drawing No. 1114/B dt. 31st October, 1963, clause B mentioned above, would exempt them from any responsibility. Besides, I find that Bechtel have written to Snam that they are not responsible for design work and a copy of this letter has been sent to us. I may add the absence of penalty clause will make

difference to our cause of action against SNAM-PROGETTI. As a matter of fact, the courts are inclined to frown upon penalty clause in a contract.

I would like to advise IOC that they have a good cause of action against SNAM-PROGETTI. But IOC must not resort to court without exhausting all avenues of compromise which would bring about an amicable settlement to the advantage of IOC.

Sd/- A. A. PEER BHOY,

*Barrister-at-Law.*

## APPENDIX VII

### Copy of Transfer Deed in respect of Koyali Ahmedabad Pipeline.

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This Indenture made this day the 31st March one thousand and nine hundred and seventy one between Oil and Natural Gas Commission a body corporate, constituted by the Oil and Natural Gas Commission Act (43 of 1959) (Hereinafter refer as "the Commission" which term shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the FIRST PART, the President of India (hereinafter referred to as the "Confirming Party" which term shall unless excluded by or repugnant to the context be deemed to include his successors and assigns) of the Second Part and the Indian Oil Corporation Ltd. a company incorporated under the Companies Act, 1956 (1 of 1956) (Hereinafter referred to as "The Corporation", which term shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the THIRD PART:

WHEREAS the Commission is the absolute and sole beneficial owner and is well and sufficiently entitled to Products Pipeline known as Koyali-Ahmedabad Products Pipeline which the Commission has set up in the State of Gujarat (hereinafter referred to as the Undertaking) which term shall unless excluded by or repugnant to the context includes all rights, powers, authorities and privileges and all properties, movable and immovable, including all other interests and rights in or arising out of such properties as may belong to or in possession of the Commission Pertaining to the said products pipeline till the close of business on 31-3-1970 and the obligations of liabilities on account of income tax arising out of the construction agreement with M/s. SNAM S.P.A. for this pipeline but shall not include cash balances, reserves, revenue balance, investments, books of accounts and right of way and right of user in land and documents relating thereto and also all debts and liabilities and obligations of whatever kind then existing, known and accounted for as such in connection with the laying of and other works pertaining to the Undertaking and final acceptance thereof from the contractors including designing, preparation of project reports construction jobs including civil works pertaining to and belonging to the Undertaking.

WHEREAS the liability on account of Income tax arising out of the Construction agreement with M/s. SNAM SPA for the undertaking shall be discharged by the Indian Oil Corporation Ltd., and the question relating to the discharge of any other liability of the pipeline which has not been taken into account upto 31-3-1970 shall be referred to the Government of India who shall decide the same.

AND WHEREAS the Undertaking has been exclusively financed by the Commission and the value of the Undertaking at the closure of the business on 31-3-1970 has been indicated at Rs. 1,63,66,667.07 (Rs. One crore, sixty three lakhs, sixty six thousand, six hundred sixty-seven and paise seven only) which is subject to adjustment, if necessary on availability of the final figures as per audited accounts of the Commission.

AND WHEREAS the Corporation is in occupation of the undertaking as lessee, to the Commission and has been operating it from 1-4-1966 and has already settled the dues towards its lease charges to the extent of Rs. 117 lakhs and the balance to be settled by and between the Indian Oil Corporation Ltd. and the Oil and Natural Gas Commission on the availability of the final figures of lease charges.

AND WHEREAS the Government of India has by the Koyali Ahmedabad Products Pipeline (Transfer) Order, 1970 dated the 24th March, 1970 (hereinafter referred to as the said order) made under Section 14(3) of the Oil and Natural Gas Commission Act, 1959 (43 of 1959) in consideration of and for reasons set out in the said order issued directions to the Commission to transfer the Undertakings to the Corporation effective from the 1st of April, 1970.

Now this indenture witnesseth that in pursuance of the aforesaid order of the Government of India in consideration of the Corporation having paid to the President of India on 1st April, 1970 a sum of Rs. 1,63,66,667.07 being equal to the written down value of the undertaking as on 31st March, 1970 which is subject to adjustment, if necessary, on availability of the final figures as per the audited accounts of the Commission and the President of India agreeing to adjust this amount towards repayment of loan instalments and interest payable by the Commission to the Central Government during the financial year 1970-71. AND in consideration of the covenants hereinafter contained on the part of the Corporation, the Commission does hereby transfer to the Corporation absolutely with effect from the First Day of April One Thousand Nine hundred seventy all the beneficial interests and goodwill of the Commission in the Undertaking including all rights and obligations in connection therewith but excluding all rights and obligations in connection therewith but excluding the rights of way and rights of user in lands AND also all machinery, and blue prints of the Undertaking, AND ALSO all agreements, engage-



ments, benefits and advantages which have been entered into with the Commission to which it was or could be entitled to on account of or in respect of the Undertaking as on the close of 31st March, 1970 as per the duly audited books of accounts and other records of the Commission conforming to the value hereinbefore stated, AND ALSO all goods fixed and movable machinery, Pipeline, pump stations at Koyali Distt. Baroda and Terminal at Subarmati Distt. Ahmedabad and Catholic Protection Stations at various villages in the state of Gujarat, fixture and fittings, articles and things which belonged to the Commission on account of the Undertaking and or were any wise used in the same as on the close of 31st March, 1970 and included in the value of the undertaking as on 31st March, 1970 together with full power to ask, demand, sue recover and give effectual receipts and discharges for the said Undertaking and every part thereof in the name of the Commission and for any such purpose every part thereof in the name of the Commission being kept indemnified by the Corporation from all costs, charges and expenses occasioned by such use of its name to have, Hold, Received AND Take the Undertaking hereby transferred so to be into the Corporation absolutely and This Indenture further witnesseth that in pursuance of the said agreement the Commission does hereby transfer, convey into the Corporation absolutely and for ever with effect from 1st April, 1970 all those pieces and parcels of land or measures, heraditaments, and premises at various villages in the Districts of Baroda, Kaira and Ahmedabad all situated in the State of Gujarat more particularly described in Annexure I attached to these presents and forms a part thereof and all the said lands and hereditaments (hereinafter referred to as "the said Premises") together with all and singular edifices, buildings, courtyards, areas, compounds, sewers, ditches, fences, trees, drains, ways, paths, passages, wells, waters, watercourses, plants, lights, easements, advantage rights, and appurtenances whatsoever to the said premises or any part thereof belonging or in anyway appertaining to or with the same or any part thereof new or at any time heretofore usually held, used, occupied or enjoyed therewith or reputed or known as part thereof to belong or be appurtenant BUT excluding the rights of the User in Land together with the Right of Way acquired and vested in the Commission by the Government of India under the petroleum Pipeline (Acquisition of right of User in Land) Act 1962 (50 of 1962) pertaining to all the lands and tracts hereinafter referred to as "The Lands" under and/or in which the Undertaking, being a part and parcel and appertaining to the Undertakings, passes located in various villages, of Baroda Kaira and Ahmedabad Districts all in the State of Gujarat more fully described in the Annexure II attached to those presents and forms a part of these presents together will all the deeds, Documents, Writings, Vouchers and other evidences of title and Rights relating to the said pieces or parcels of land or parcels of land or ground hereditaments and premises or any part thereof AND ALL THE estates, right, title interest, use property, possession benefit, claim and demand whatsoever of the

Commission into, out of or upon the said premises' said premises hereby transferred and intended or expressed so to be with their and every of their rights, members and appurtenances upto and to the use and benefit of the Corporation absolutely and for ever (subject to the provisions of this agreement) subject to the payment of all rents, rates, taxes, assessments, dues and duties new chargeable upon the same or hereinafter to become payable to the Government or any other Public body/person(s) in respect thereof by the Corporation, and also subject to the payment of compensation by the Corporation and/or damages arising in and out of use of right of way and User in land in respect of lands referred to in Annexure II as awarded and/or to be awarded by the Competent Authority appointed under the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 or any other Law in force subject to what is hereinafter mentioned.

2. The Commission hereby covenants with the Corporation as follows:

- (a) The Commission hath not done anything or suffered anything to be done whereby the Undertaking and/or 'the said premises' are in any way encumbered or affected;
- (b) It shall be lawful for the Corporation from time to time and at all times hereafter peaceably and quietly to hold, enter upon, have, occupy, possess and enjoy the Undertaking with their appurtenances without any suit, lawful eviction, interruption claim and demand whatsoever from or by the Commission or by any person or persons lawfully claiming from or under the Commission;
- (c) The Commission shall and will from time to time and at all times, hereafter at the request and cost of the Corporation do and execute or cause to be done or execute all such further and lawful acts, deeds, things, matters, conveyances, and assurances whatsoever for the better and more perfectly transferring 'the said premises' unto the Corporation in the matter aforesaid as shall or may be reasonably required by the Corporation;
- (d) The construction and operation of the Commission's and Corporation's pipelines will not in any way hamper/or obstruct the laying and operation of each other's pipelines.

3. The Commission and the Corporation hereby covenant with each other that any person or persons lawfully claiming from or under the Commission to lay and operate and maintain the Pipelines in and under the said lands situated in various villages of Baroda, Kaira and Ahmedabad districts, all in the State of Gujarat, more fully described in Annexure II attached to these presents, and any person or persons lawfully claiming from or under the Corporation to lay, operate and maintain the Undertaking on behalf of the Corporation, shall have the necessary permission under

this Indenture to do all such acts and things in furtherance of the objectives of the Commission and the Corporation, under the following conditions:

- (i) The Commission and the Corporation will pay and will be liable to pay to each other any cost of damage/damages, loss to person and/or property done or caused to be done wilfully during their individual acts, namely in the laying and operation of their pipelines.
- (ii) The Commission and the Corporation, will give prior intimation to each other of taking up any construction/repair work on their respective pipelines.
- (iii) The Corporation will reimburse the Commission proportionately the compensation money which the Commission has paid to the land owners of the said lands under the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 for the Right of User in land in respect of land acquired for laying pipelines under the existing right of way.
- (iv) The Commission will pay and will be liable to pay compensation for damages, loss to persons and/or property done or caused to be done by the act of laying their pipelines, as determined and awarded by the Competent Authority appointed and acting under the Petroleum Pipelines (Acquisition of Right of User in Land) Act 1962 or any other authority established under the law.
- (v) The Corporation agrees to pay to the Commission the recurring charges for the maintenance of the right of way of the Undertaking mentioned in Annexure II on such terms and conditions as may be mutually settled between the Corporation and the Commission.

4. The Corporation hereby covenants with the Commission as follows:—

- (a) The Corporation shall with effect from 1st April, 1970 continue in service under itself without interruption or break of service the staff and workmen hereinafter referred to as the aforesaid staff under the Commission in connection with the Undertaking a list whereof is attached with these Presents and forms a part of as Annexure III which list is final and conclusive and binding on the Corporation except those who are no more in service on the appointed day for any reason/reasons whatsoever.

- (b) The Corporation shall ensure that the terms and conditions of service of any and every member of the aforesaid staff under the Corporation shall not be less favourable with regard to any matter than the corresponding terms and conditions applicable to him under the Commission.
- (c) The Corporation shall give full credit to the service rendered by the said staff and workmen under the Commission in accordance with the terms and conditions of service under the Commission or in accordance with the terms and conditions of service under the Corporation whichever may be more favourable to the said staff and workmen.
- (d) That the provident fund kept by the Commission in respect of the staff and workmen whose services are taken over by the Corporation as aforesaid shall be transferred to the Corporation with effect from 1st April, 1970 if not already transferred;
- (e) The Corporation shall be liable to pay compensation to any and every staff and workmen whose services are taken over as aforesaid in the event of his retrenchment, on the basis that the services of such staff or workmen have been continuous from the date of commencement of such service with the Commission and that said service has not been interrupted by the transfer of service;
- (f) It is mutually agreed by and between the Corporation and the Commission that such of those employees referred to in clause 4(a) forcing who have, accepted a fresh offer of appointment from the Corporation on the terms and conditions of the service of the Corporation will not be covered by the covenants as per 4(a), (b), (c) and (e) foregoing.

5. It is agreed by and between the Corporation and Commission that the Corporation shall permit the Commission and/or its agents to hook up the Undertaking's Cathodic Protection System if physically and technically feasible to the Commission's pipelines. In the event of difference arising between the Corporation and the Commission on the practicability of hooking up of Cathodic Protection System, the matter shall be referred by the confirming party to the Director of Indian Institute of Petroleum and/or any other competent authority in Cathodic Protection System whose advice shall be considered by the confirming party for final decision. The expenses towards the cost of any additions or alterations to the Cathodic Protection System or any damage done to the system or any other expenses in connection with such hooking up will be borne by the Commission.

Notwithstanding the above, the Commission agrees to pay to the Corporation, in consideration of the use of Corporation's Cathodic Protection System, such charges as may be mutually settled between the two parties.

6. The Commission and the Corporation hereby covenant with the Confirming Party that the Confirming Party shall be competent to issue such orders and/or directions to the Commission and the Corporation in respect of the transfer of the undertaking as the Confirming Party may deem expedient from time to time, or as may be necessary to implement the provisions thereof, and such orders and/or directions shall be binding on and be complied with by the Commission and the Corporation. In case of any dispute, difference, or question arising out of the provisions of this indenture between the Commission and the Corporation, the matter shall be referred to the confirming party for a decision which shall be binding on both the parties.

7. The Confirming Party hereby confirms the transfer and assignment of the Undertaking by the Commission to the Corporation on the terms and conditions herein set forth.

The Confirming Party has agreed to bear the Stamp duty and registration charges on these presents.

IN WITNESS WHEREOF Shri Balwant Singh Negi, Chairman of the Oil and Natural Gas Commission for and on behalf of the Commission, **Shri M. V. Rajwade, Joint Secretary**, to the Government of India, Ministry of Petroleum and Chemicals, Mines and Metals (Deptt. of Petroleum) for and on behalf of the Confirming Party and **Shri C. R. Das Gupta, Managing Director**, Indian Oil Corporation Ltd., for and/on behalf of the Corporation have respectively set their hands on the day, month and year first above written.

Signed by the above named  
Shri Balwant Singh Negi, for and on behalf of  
Commission the transferer in the presence of

Sd/- B. S. Negi

*Witness*

1. Sd/- G. Ramaswamy, Chief (Exploration) Min.  
of Petroleum and Chemicals, New Delhi.
2. Sd/- H. C. Sharma, Under Secretary, Deptt.  
of P & C, New Delhi.

Signed by the above named **Shri M.V.Rajwade,**  
for and on behalf of the President of India, the Con-  
firming Party.

Sd/- M. V. Rajwade

In the presence of

*Witness*

1. Sd/-  
Address : Deputy Petroleum Officer, Deptt. of P & C,  
New Delhi.
2. Sd/-  
Section Officer, Deptt. of P & C, New Delhi.

Signed by the above named Shri C. R. Dass Gupta  
for and on behalf of the Corpn., the Transferee.

Sd/- C. R. Dass Gupta.

*Witness*

1. Sd/- O. P. Sehgal, Chief Administrative  
Officer, IOLC, (R&P), New Delhi.
2. B. D. Gupta, Asstt. Financial Controller  
(Pipelines) Indian Oil Corporation Ltd., New  
Delhi.

Shri B. D. Gupta.

## ANNEXURE I

### *Details of Pipelines, Plant and Machinery*

(a) Pipeline:

Pipeline of 8.5/8" outer diameter having 0.219" wall thickness fabricated to API standard 5LX-46 passing through various villages in the District of Baroda Koira and Ahmedabad in the State of Gujarat.

Total Length	.	.	.	115.416 Kms.
Mainline Valves	.	.	.	12 Nos.
Submerged (Water course) crossings	.	.	.	4 Nos.
Canal Crossings	.	.	.	13 Nos.
Railway line crossings	.	.	.	7 Nos.
Road Crossings	.	.	.	28 Nos.
Suspended crossings across Road bridges	.	.	.	2 Nos.
Cathodic Protection Bunks	.	.	.	4 Nos.
Measurement or test points for C. P. System	.	.	.	48 Nos.

(b) Pump Station

Sl. No.	Description	Qty.	Specification
1	Station inlet gate valve	1	8" —ASA 150
2	Suction Booster pump with electric motor and control and inlet valve 8" and outlet valve 6"	2	Pump—4×9 VCD Capacity 106 M <sup>3</sup> /hour Head 40 M Motor—Italian Make HP—30.5.
3	Seperator filter complete with inlet outlet and bypass valve 6", 3"—ASA 150 Non return Valves Safety, Valve, Foxboro differential pressure indicator, complete with piping connections drains etc.	1	SIIRTEC (PERCO) MILANO Operating for 150 Psi.
4	Strainer with Foxboro differential pressure indicator	1	Type 280/R 6" ASA.
5	Rocketwell flow meter	1	Model No. 600B, Max. Flow 600 US gallons

Sl. No.	Description	Qty.	Specification
6	Corrosion inhibitor pump with motor, tank and connected piping system.	1	Pump Milton Roy, Model 1-24-62SM Motor 180 watt.
7	Sump tank with pump motor tank and connected piping and valves	1	Pump—GABBIONETA Disch.—15M3 head 80M Motor 8.1 KW
8	Gate valve 6" and safety valve	1	ASA 150.
9	Mainline pump with motor inlet and outlet valves 6" ASA 600, non-return valve complete with piping and controls	3	Pump—Type 3x9 MSN NUVO PIGNONE Capacity: 106 M3/hr. Head 335 M, Motor 150 KW Italian Make
10	Non-return valve safety valve	2	6" size
11	Electro-hydraulic valve with high pressure switches 2 Nos. and a pressure gauge with piping connection.	1	MASONEILAN WORTHINGTON Model—57—10132 Size 6"
12	Dy pot with connected piping	1	
13	Scrapper Launcher assembly complete with piping and valves size 16"—No. 8"—1 No. and 3"—2 Nos. safety valve	1	
14	Alarm panel with indicators of failure of safety devices on pumps, electrohydraulic valve controller, flow recorder pressure recorder, sump tank level indicator etc.	1	Italian make.
15	Motor control centre with starter for all the motors in the pump station	1	Italian make.
16	Battery charger		Type RBC Italian make.
17	Control building housing the alarm panel MCC, battery charger, despatch office and store room	1	Length—18.50 M Breadth—8.50 M
18	Station outlet valve	1	ASA 600 8" size.



## (C) MAINLINE VALVES

Valves Grove Nuovo Pignon make ASA 600—8" size in all twelve numbers as detailed below:

Sl. No.		From Koyali
1.	At KM	3.215
2.	"	8.380
3.	"	9.300
4.	"	12.070
5.	"	26.520
6.	"	51.595
7.	"	62.138
8.	"	64.847
9.	"	90.192
10.	"	92.219
11.	"	98.185
12.	"	112.000

## (D) C. P. BUNKS

Make—Paolretti Italy Model—4189, Capacity 4.8 KW

Sl. No.	Location	KM from Koyali
1	Vasad . . . . .	12.00
2	Vasopalana . . . . .	51.73
3	Bareja . . . . .	77.30
4	Surkhej . . . . .	98.20

## (E) TERMINAL

- |   |  |   |            |
|---|--|---|------------|
| 1 | Station inlet valve 8" . . . . .   | 1 | 8" ASA 600 |
| 2 | Scraper receiving barren complete with piping and valves size 8"—1 No. 6" 1 No. and 4"—2 Nos. with safety valve pig signal pressure gauge etc. | 1 |            |

Sl. No.	Location	KM from Koyali
1	2	3
3	Shaffer/control valve pneumatic/hydraulic/electric/manually operated.	1 Make Breda WKM USA Size 6" STSASA 600—2175.
4	Hydro electric valve/actuator type with by pass valve 4" size.	1 Make—Worthington. Model 57—10/134
5	Gate valve 3" with safety valve 6" x 4" with connected piping to contamination tank	1
6	Separator filter (Same as for pump station)	1
7	Strainer with foxboro differential pressure indicator	1 Type 280/R 6" ASA
8	Dial Thermometer (Temp Gauge)	10-60° C range
9	Rockwell flow meter	1 Model No. 600 B Max. flow 600 US Gallon.
10	Gate valve with 2 T connections	1 6" size, ASA 150
11	Gate valve 6" and 4" with Piping connected with contamination tanks.	1
12	Pipe manifold with 4 Nos. 6" gate valves and 3 Nos. non-return valves of 6" size complete with piping with pressure gauge sampling point going to storage tanks.	1
13	Contamination tank 160 <sup>7</sup> M <sup>3</sup> complete with inlet valved 6" outlet valves 4" —2 Nos. 4" & 2" drains valves, level indicator etc.	1
14	Fire fighting pump diesel draine with non-return valve and gate valve 4" complete with piping pressure gauge foam makerunit etc. and fire fighting tank.	1 Diesel engine OM— CARRARO Cup. 30M <sup>3</sup> /hr Head 80-M tank
15	Air compressor, petrol engine driven with mercoid switch and piping etc.	1 Compressor, Type WA—30 NUOVO PIGNONE
16	Sump tank with turbine pump electric driven complete with piping and controls.	Motor Italian make KW 8.1 G. ABBUNON TA Discharge—15M <sup>3</sup> /hr. Head—20M.
17	Oily water separator with turbine pump electric driven complete with piping and control	Motor Italian make KW 2.6 Pump—GABBINONETA Capacity 15 M <sup>3</sup> /hr. Head 20 M.
18	Alarm panel with indicator for contamination tank, sump tank level indicator, prover counter, pressure recorder etc.	1

1	2	3
19	Motor control centre with starters for all the motors in the terminal.	1 Italian make
20	Battery charger	Type RBC, Italian make.
21	Control building housing control panel electric cabin and store and sanitary facilities.	8.9 M. x 6.60 M.
22	Contamination tank pump electric driver with piping valve etc.	1 Pump Cabbioneta Cap. 50 M 3 hr. Head 30M. Motor 8.1 KW.

(F) CATHODIC PROTECTION BUNK IN KOYALI AHMEDABAD PRODUCTS PIPELINE

S. No.	Name of Village	Taluka	District	Survey No.	Area of land	Name of land owner (occupant)	Remarks
1	2	3	4	5	6	7	8
1	Vasad	Anand	Kaira	684	0.65 Sq.Mtr.	Chaturbhai Narotambhai	No action has been taken for the permanent acquisition
2	Palana	Nadiad	Kaira	730	0.65	Do	Motibhai somabhai
3	Okaf	City	Ahmedabad	339	0.65	Do.	Bhagbhai Ajabhai
4	Navagam	Matar	Kaira	866	0.65	Do.	Gauchar Land V. P. Navagam

## (G) Details of Pieces of Land for Main Valves on the K.A.P.

Name of Village	Tahuka	District	Survey No.	Area of land	Name of land owner (occupant)
1	2	3	4	5	6
Padmala	Baroda	Baroda	688	16	Mohanlal Tribhovanandas & Chandulal and others
Vasand . . .	Anand	Kaira	25	16	Patel Thakorbbhai Harmanbbhai
Vesad . . .	Anand	Karia	675	16	Jethabbhai Varibhai
Anand . . .	Anand	Kaira	675	16	Patel Rachhobhai Zaverb
Palana . . .	Nadiad	Kaira	569/2+ 570/2	16	Dhajibhai Ishwarbbhai Ambalal Chhagan Bhai
Sakhada . . .	Matar	Kaira	724	16	Ishwarbbhai Naranbbhai
Harialaj . . .	Matar	Kaira	251	16	Becharbbhai Tarsangh bhai
Kamad . . .	Dascroi	Ahmedabad	177	16	Punaji Havaji
Bakrol . . .	Dascroi	Ahmedabad	308	16	Atmaram Parshottam
Fattewadi	Dascroi	Ahmedabad	398	16	Parvi Nariman Kathwala
Ghatlodi	City	Ahmedabad	184	16	Motilal Motilal
Fajalpur . . .	Baroda	Baroda Village Gamthan Land	..	16	Govt. land

ANNEXURE—II

Statements showing the Final Notifications and Erratum which were got published under the Petroleum Pipeline Act, 1962 Acquiring the right of user in the land for Laying of Koyali Ahmedabad products Pipeline

Name of Village	Taluka	District published	S. O. No. & Date of notifications published under Sec. 6 of the P. Act. 1962.	Erratum got published if any.	Remarks
1. Padamla Puzapur	Baroda	Baroda	S. O. No. 3252 dt. 1-9-64 published in the Gazette dt. 12-9-64	Errata published under S. O. No. 2593 dt. 24-7-67 in the Gazette dt. 5-8-1967	
2. Nandesari Ranoli Karachia.					
3. Valod, Vasdi, Havgud, Napsad, (Vinto) Atlas, Anand.	Anand	Kaira	S. O. No. 3024 dt. 24-8-64 published in the Gazette dt. 5-9-64.	1. Errata published in the Gazette dt. 1-7-67 under S. O. No. 2167 dt. 17-6-67. 2. Errata published in the Gazette dt. 22-10-66 under S. O. No. 3179 & No. 3180 dt. 14-10-66.	
4. Anand, Bakrol Zol.	Anand	Kaira	S. O. No. 162 dt. 31-12-64 published in the Gazette dt. 9-1-65.	Errata published in the Gazette under S. O. No. 3324 dt. 13-9-67.	
5. Anand . . . . .	Anand	Kaira	S. O. No. 935 dt. 16-3-66 published in the Gazette dt. 26-3-66.		Addl. notification for strange S.No.
6. Vasad, Adas Viod, Bakrol, Jol, Anand	Anand	Kaira	S. O. No. 3921 dt. 9-12-66 published in the Gazette dt. 24-12-66.		Do.
7. Vadtal, Palans, Akhodal, Mitral, Pij, Vaso & Rampur.	Nadiad	Kaira	S. O. No. 567 dt. 1-2-65 published in the Gazette dt. 13-2-65.	1. Errata published in the Gazette dt. 9-4-66 under S.O. 1062 dt. 19-3-66. 2. Errata published in the Gazette dt. 27-5-67 S.O. No. 1003.	

8. Vachal, Akhadol, Pij, Vasco & Palmana.	Kaira	Nadiad	S. O. No. 2871 dt. 19-9-66 pub- lished in the Gazette dt. 1-10-66	Addl. Notifica- tion for strange S. No.
9. Sanjaya . . . .	Kaira	Patid	S. O. No. 569 dt. 1-2-65 published in the Gazette dt. 13-2-65.	..
10. Raghunaj, Uadhela, Matar Vansar, Sakhad, Harcayala, Ratanpur, Gobbi, Pansoli, Keji - pura, Pingla).	Kaira	Matar	S. O. No. 566 dt. 1-2-65 published in the Gazette dt. 13-2-65.	1. Errata published in the Gazette dt. 8-10-66 under S. O. No. 3003 dt. 16-9-66. 2. S. O. No. 2594 dt. 24-7-67 Gazette dt. 5-8-67. 3. Errata published in the Gazette dt. 9-10-66 under S. O. N 001 dt. 28-9-68.
11. Kathwala, Navagam	Kaira	Matar	S. O. No. 1022 dt. 22-3-65 pub- lished in the Gazette of India dt. 3-4-65.	..
12. Kaira . . . .	Kaira	..	S. O. No. 665 dt. 1-2-65 Gazette dt. 13-2-65.	Addl. Notifica- tion for strange S. No.
13. Raghunaj, Uadhela Vansar, Sakhad, Hari- yala, Gobbi, Pansoli.	Kaira	Matar	S. O. No. 2726 dt. 24-11-66 pub- lished in the Gazette dt. 10-12-66.	..
14. Navagam . . . .	Kaira	Matar	S. O. No. 2399 dt. 29-7-66 pub- lished in the gazette dt. 13-8-66.	..
15. Ghosodia, Chambedia, Hareja, Vansi, Gosal, Chainpar, Bedoldev, Thaltej.	Ahmedabad.	Dascroi	S. O. No. 1021 dt. 22-3-65 publish- ed in the gazette of India dt. 3-4-65.	1. Errata published in the Gazette of India dt. 29-10- 66 under S. O. No. 3182 dt. 14-10-66. 2. Do. 3243 dt. 19-10-66.

- |     |   |                       |   |   |    |    |  |
|-----|---|-----------------------|---|---|----|----|--|
| 16. | Badarabad, Knoi, Vansar, Dascroi<br>Fatehvadi, Girmatha<br>Niaz Nimod, Oda                    | Ahmedabad.            | S.O. No. 568 dt. 1-2-65 Gazette dt. 13-2-65.                                | 1. —Do.—dt. 8-10-66 under S.O. No. 3000 dt. 16-9-66.<br>2. —Do.— dt. 20-1-68 under S.O. No. 244 & 245 dt. 10-1-68 and dt. 11-1-68. respectively.. | .. | .. | ..                                     |
| 17. | Chengsar, Gota Chandlodia, Bareja, Owd, Fattewadia, Badakdev, Niaz Vansar, Chabodia, Thaltej. | Dascroi               | Ahmedabad S.O. No. 3725 dt. 14-11-65 published in the Gazette dt. 10-12-66. | ..  | .. | .. | Add. Notification for strangle S. No.  |
| 18. | Vejalpur, Memnagar, Okaf, Surkhej, Makarba, Thaltej.  | Ahmedabad City Taluka | ..  | 1. Erratum published in the Gazette of India dt. 16-6-67 under S. O. No. 3241 dt. 6-9-67.<br>2. —Do.—dt. 16-9-67 under S. O. No. 3242 dt. 6-9-67. | .. | .. | ..                                     |
| 19. | Okaf  | ..                    | S.O. No. 3724 dt. 24-11-66 Gazette dt. 10-12-66.                            | ..  | .. | .. | Add. Notification for strangle, S. No. |
| 20. | Chenpar   | Dascroi               | ..  | S. O. No. 2347 dt. 26-7-66 published in the Gazette dt. 6-8-66.   | .. | .. | ..                                     |
| 21. | Chandodia (S.No. 119/2, 248) Vepalpur S.No. 1139) Okaf (S.No. 211).                           | City                  | ..  | S. O. No. 2016 dt. 28-5-68 published in the Gazette dt. 8-6-68.   | .. | .. | ..                                     |
| 22. | Vadnal (S.No. 447.2)  | Nadiad                | ..  | S. O. No. 2363 dt. 26-6-68 published in the Gazette dt. 6-7-68  | .. | .. | ..                                     |
| 23. | Zol (S.No. 816)   | Anand                 | ..  | S. O. No. dt. 7-6-68 published in the gazette dt. 15-6-68.  | .. | .. | ..                                     |

### ANNEXURE III

*List of Staff in Service of the Commission 1-4-1966 and which was transferred to Koyali Ahmedabad Products Pipeline (IOC)*

Sl. No.	Name	The then designation	Date of release
1	Shri V. P. Devadas	Asstt. Admn. Officer	29-3-66 (AN)
2	Shri H. V. Bhaskarrao	A.E.	30-3-66 (AN)
3	Shri C. R. Thakar	A.E.	21-4-66 (AN)
4	Shri T. K. Sengupta	Inspector	28-3-66 (AN)
5	Shri Abdul Hakim	Inspector	25-4-66 (AN)
6	Shri P. G. Menon	Camp Foreman	29-3-66 (AN)
7	Shri H. Shankar Nayak	Despatcher	29-3-66 (AN)
8	Shri H. S. Kamra	Jr. Accountant	28-3-66 (AN)
9	Shri Sutinder Nath	H. Asstt.	28-3-66 (AN)
10	Shri S. D. Amin	Jr. Mechanic]	28-3-66 (AN)
11	Shri N. N. Shah	Sr. Electrician	28-3-66 (AN)
12	Shri S. N. Paithankar	Jr. Draftsman	23-3-66 (AN)
13	Shri M. G. Saharabudhe	Jr. Electrician	28-3-66 (AN)
14	Shri V. V. M. Nair	Steno-typist	28-3-66 (AN)
15	Miss G. Joy	Steno-typist	28-3-66 (AN)



## APPENDIX VIII

As for the circumstances under which the undertaking was permitted to incur expenditure beyond 10 per cent of the sanctioned estimates, the Department of Petroleum has already appointed a Commission of Inquiry *vide* their Resolution No. 28(11)-70-OR, dated the 22nd August, 1970. Further action is being taken by the Department of Petroleum.

2. The present procedure in regard to seeking approval of Parliament in regard to public sector undertakings is as follows:—

(i) Prior approval of Parliament is required for setting of new Government companies, splitting up of existing company, amalgamation of two or more Government companies and taking up of new activity by any existing Government Company.

Detailed information as far as possible on the objectives scope, capital cost, foreign participation, if any, profitability and other financial obligations are incorporated in the notes on important schemes which are appended to the volume of demands for grants of the Ministries concerned or in the explanation to the supplementary notes as the case may be.

(ii) Prior approval of the Parliament is required for additional investments in or loans to existing Government companies beyond the limits specified at item 1(iii) of Department of Economic Affairs O.M., dated 27th July, 1970 (Annexure I).

3. With regard to paras (c) and (d), the present position is as under:—

- (i) Powers have been delegated to the Boards of Directors to sanction expenditure in case of variations in approved estimates upto 10 per cent for any component part thereof.
- (ii) approval of the Cabinet is necessary in case of increase in the capital cost estimates over 20 per cent.
- (iii) Increase in the estimates which are not in excess of 20 per cent may be processed by the Administrative Ministry in the usual manner without reference to the Cabinet.

4. Instructions have also been issued that the economics of the projects be worked out on the basis of the revised estimates of capital cost. Adequate safeguards have thus already been provided to ensure that proper control over the revision of project estimates of public undertakings is exercised from time to time. Prior Parliament's approval for every increase in the capital cost estimates of the Undertakings would lead to practical difficulties, besides delay in the execution of the Undertakings which in turn would affect operational efficiency of the projects. In view thereof it is submitted that prior approval of Parliament may not be insisted upon but major cases where the capital cost estimates are revised, may be brought to the notice of Parliament. It is accordingly proposed to report to the Parliament cases where the increase in the capital cost estimates is in excess of 20 per cent of the original sanctioned estimate or Rs. 3 crores, whichever is higher. A list of such cases will be appended to the Budget Documents every year. The Undertakings, in which further investment on account of revision of the cost is to be made from Government funds, would however, be covered by the Department of Economic Affairs, O.M. dated 27th July, 1970, referred to above (Annexure I). Such cases need not, therefore, be included in the above list.

## ANNEXURE I

Copy of O.M. No. F.8(10)-B/69, dated the 27th July, 1970, from Ministry of Finance (Deptt. of Economic Affairs) addressed to all Ministries/Deptt. etc., and Financial Advisers in the Department of Expenditure.

**SUBJECT:—*New Service/New Instrument of Service—Limits to be observed pursuant to the recommendations of the Public Accounts Committee.***

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The undersigned is directed to invite a reference to this Ministry's O.M. No. F.8(10)-B/68, dated the 2nd November, 1968 and the 25th January, 1969 on the above mentioned subject with which copies of 'Action Taken Statements' incorporating the views of the Government on the recommendations of the Public Accounts Committee contained in their 11th Report (4th Lok Sabha) were circulated to all the Ministries, etc. These 'Action Taken Statements' have been considered by the Committee and their observations thereon are contained in their 50th Report (4th Lok Sabha). For the convenience and guidance of the Ministries, etc., and for deciding the cases of the type, the limits to be observed in deciding whether a case relates to New Service/New Instrument of Service and for determining whether it be reported to Parliament, have been indicated in the enclosed statement drawn up on the basis of the Government decisions on the recommendations of the Committee. Ministries, etc., are requested to note these limits carefully and examine cases arising hereafter, involving 'New Service/New Instrument of Service', etc., in the light thereof. All doubtful cases may, however, continue to be referred to this Ministry for consideration.

Sd/- B. MALTHREYAN,

*Joint Secretary to the Government of India.*

*'New Service/New Instrument of Service'—Limits to be observed in deciding cases relating to*

*A—Cases for Limits beyond which prior Approval of Parliament is required*

Nature of transactions	Limits beyond which prior approval of Parliament is required
1	2
<b>I. Public Sector Undertakings/Departmental Undertakings</b>	
(i) Setting up of new Government companies splitting up of an existing company, amalgamation of two or more Government Companies and taking up of a new activity by an existing Government Company or a departmental undertaking.	All cases
(ii) Additional investments in an existing Departmental Undertaking.	Rs. 1 crore
(iii) Additional investment in or loans to an existing Government Company.	Paid up Capital of limit the existing Company
	Upto Rs. 1 crore—Rs. 20 lakkhs. Above Rs. 1 crore and upto Rs. 25 crores—Rs. 2 crores Above Rs. 25 crores and upto Rs. 100 crores—Rs. 10 crores. Above Rs. 100 crores—Rs. 15 crores.
	Note 1—While applying the above limits Loans and Capital investments are to be taken together.
	Note 2—Short term Loans (Working Capital) of duration not exceeding one year, need not be treated as 'New Instrument of Service' but should be reported to Parliament with the ensuing batch of Supplementary Demands.
	Note 3—For loans to Port Trusts, Delhi Municipal Corporation, Financial Institutions etc. limits as in the case of Public Sector Companies are to be applied.
	Note 4—Where there is no budget provision prior approval of Parliament will be necessary in the cases of loans exceeding Rs. 20 lakhs to an existing Government Company. This limit will apply only in the case of long term loans.

1

2

II. Private Sector Companies Private Institutions.

- (a) Investments to be made for the first time.  
 (b) Additional investments in or loans to an existing Company/institution.

All cases

Rs. 1 crore

Note 1—While applying these limits loans and capital investments are to be taken together.

Note 2—In the case of Loans to statutory and other public institutions like University Grants Commission, Indian Institution of Technology, Khadi and Village Industries Commission, etc. limits as applicable to Private Sector Companies/Private Institutions should be applied.

Note 3—Where there is no budget provision prior approval of Parliament will be necessary in the case of loans exceeding Rs. 10 lakhs.

III—Grants-in-aid- to private Institutions

Recurring—Rs. 5 lakhs and Non-recurring—Rs. 10 lakhs subject to the following:—

- (a) The limits of or non-recurring and recurring grants-in-aid to private institutions would apply with reference to money disbursed by an individual Ministry/Department and not by Government as a whole.
- (b) In the case of recurring grants exceeding Rs. 5 lakhs per annum the financial implications would be reported to Parliament where the grant is to be made for two years or more.
- (c) In the case of Grants-in-aid under Export Promotion Schemes the limits applicable to subsidies under these schemes will apply to Grants-in-aid also.

Limits

IV. Grants-in-aid to statutory and other public institutions

(Rs. in lakh)

- (i) Institutions in receipt of grants-in-aid of less than Rs. 1 crore 10

1

2

	Limits (Rs. in lakh)
(ii) Institutions in receipt of grants-in-aid of more than Rs. 1 crores but less than Rs. 2 crores	20
(iii) Institutions in receipt of grants-in-aid of Rs. 2 crores and above but below Rs. 3 crores	30
(iv) Institutions in receipt of grants-in-aid of Rs. 3 crores and above.	50

Note: These limits would apply with reference to moneys disbursed by an individual Ministry/Department and not by Government as a whole.

## V. Subsidies

(i) Subsidies under Export Promotion Schemes and on Foodgrain transactions

(a) *Export Promotion Schemes:*

(i) The budget provisions should be split up as under :

(i) Product Promotion assistance (for Fabricated products like engineering and sports goods etc.)

(ii) Commodity Development assistance (for iron and steel, ferrous scrap, etc.)

(iii) Export credit development schemes (for subsidies to banks).

(iv) Grants-in-aid and contribution to export development organisations (Export Promotion Council etc.)

(v) Grants-in-aid for market development (for market research, fairs, exhibitions, publicity etc.)

Parliament should be approached whenever it becomes necessary to augment the total provision for Export Promotion Schemes or provision under anyone of the heads referred to above by more than Rs. 1 crore

(b) *Foodgrain transactions:*

Parliament will be approached whenever it becomes necessary to augment existing budget provision by more than Rs. 1 crore.

(ii) Other subsidies . . . . . Rs. 10 lakhs  
*Other Cases*

(i) New Commissions or Committees of enquiry. Rs. 4 lakhs (total expenditure)

(ii) Expenditure on a 'new Work' . . . . . Rs. 25 lakhs.

(iii) Other cases of Government expenditure. Each case to be considered on merits.

1

2

Posts and Telegraphs }  
 Defence }  
 Railways }

All the above limits including those relating to Works Expenditure (Rs. 25 lakhs) applicable to be other Ministries/Departments will apply in the case of these Ministries/Departments; subject to considerations of security in the case of Defence and that for Ordnance Factories the limit of Rs. 1 crore should be made applicable with reference to investments in all the factories as a whole Civil Works, which do not form part of any project of the Departmental Undertakings (Ordnance Factories) should be treated like ordinary Defence Works. As such they would attract the limits of 'new instrument of service' if the cost thereof exceeds Rs. 25 lakhs or should be reported if the cost thereof exceeds Rs. 10 lakhs but does not exceed Rs. 25 lakhs. A list of such works should, however, be supplied to the Director of Audit, Defence Services.

*B. Cases for Limits beyond which Report to Parliament is necessary along with the En-  
 suing Batch of Supplementary Demands for Grants Notes on Demands for Grants*

Nature of transactions	Limits beyond which report to Parliament is necessary	
1	2	
I. Additional investment in an existing Departmental Undertaking	Rs. 50 lakhs and above but below Rs. 1 crore.	
II. Additional investment in or loans to an existing public Sector Undertakings/ Govt. Company.	Paid up Capital	Limit
	Upto Rs. 1 crore	Rs. 10 lakhs and above but below Rs. 20 lakhs.
	Above Rs. 1 crores and upto Rs. 25 crores	Rs. 1 crore and above but below Rs. 2 crores.
	Above Rs. 25 crores and upto Rs. 100 crores.	Rs. 5 crores and above but below Rs. 10 crores.
**Above Rs. 100 crores	Rs. 7.50 crores and above but below Rs. 15 crores.	
Note:—While applying the above limits Loans and Capital investments are to be taken together.		
III. Additional investment in or Loans to a Private Sector Company/Insti- tution.	Rs. 50 lakhs and above but below Rs. 1 crore.	

Note:—While applying the above limit Loan and Capital investments are to be taken together.

1	2
IV. Subsidies	<i>Subsidies under Export Promotion Schemes</i>
	Augmentation of total provision by re-appropriation of over Rs. 25 lakhs (and less than Rs. 1 crore) or re-appropriation of Rs. 25 lakhs (and less than Rs. 1 crore) from one sub-head to another but without any overall augmentation of the total provision.
	<i>Subsidies on Foodgrain transactions</i>
	Re-appropriation in excess of Rs. 25 lakhs (but less than Rs. 1 crore).
V. Expenditure on a 'new work'	Rs. 10 lakhs and above but below Rs. 25 lakhs.
VI. Transfer or a gift of Government assets to Public Corporations/Companies, Autonomous Bodies, Private Parties/Institutions, etc.	Rs. 1 lakh (To be reported through the notes on Demands for Grants).

Note:—

In case of urgency, where it may not be possible to wait till the matter is brought to the notice of Parliament through the Notes on Demands for Grants arrangements may be made by entrusting the management of the property to the body or institution but the formal transfer of the title to the property should be effected only after a mention is made in the Notes of Demands for Grants.



## APPENDIX IX

Administrative Reforms Commission in their Report on "Public Sector Undertakings" had made various recommendations in the area of planning and construction of public sector projects. Based on these recommendations, Government have taken a number of decisions in this regard. The more important ones amongst them are indicated below:—

- (i) Once a project has been approved, systematic and thorough planning of the construction programme should be undertaken before starting actual construction.
- (ii) For all projects involving sizeable investment, i.e., of Rs. 1 crore and above, a complete Master Plan of construction should be drawn up with the help of network techniques like the PERT and C.P.M.
- (iii) The Construction effort under each contract should be scheduled and coordinated within the framework of a master plan.
- (iv) Performance data should be collected about contractors doing work on public sector projects so that sufficient documentation may be available to the management for supporting their decision to reject the lowest tender in case the contractor making it is adjudged unsuitable.
- (v) The network techniques should be adopted for monitoring the progress of construction.

These decisions have been brought to the notice of administrative Ministries/Public Enterprises through suitable guidelines issued by the Bureau *vide* Ministry of Finance Office Memoranda No. 32-Adv(c)/Cir-63/70, dated 30th March, 1970, No. 188-Adv(c)-Cir/46/49, dated 27th January, 1969, and No. 1275-Adv(c)-Cir-79/70, dated 3rd September, 1970.

As regards the stream-lining of the management information system, Bureau of Public Enterprises has engaged the services of Indian Institute of Management, Calcutta, to assist in working out management information systems and provide formats for different types of reporting. The existing arrangements for reporting to the Ministries by the Public Enterprises will thus come up for complete review in this context. On the question of responsibility of the administrative Ministries in regard to the performance of Public Enterprises, Government have laid down certain measures to be taken by the Ministries in this regard, following the earlier recommendation

of the Committee on Public Undertakings (1967-68) in the Report of N.C.D.C. It will be noted from O.M. No. 2(34)/69-BPE(GM), dated 7th July, 1969 (Annexure) that Government have accepted that a beginning can be made for effective shouldering of Government responsibility in the running of Public Enterprises (which will *inter-alia* also cover the commissioning of projects already approved) in the following directions:

- (i) Suitable briefing of Government Directors on the Board of Management of Public Enterprises;
- (ii) Effective reporting system followed by performance Review Meetings; and
- (iii) Periodical appraisals by the Bureau of Public Enterprises jointly with the administrative Ministry.

The above instruction also envisages that the Secretary of the administrative Ministry concerned should hold performance Review Meetings of the undertakings individually, to discuss and analyse the contents of the performance reports of the enterprises *vis-a-vis* targets laid down for the year as well as for the individual quarters.

It will thus be noted that Government have now taken steps for keeping a watch over the progress of construction of the projects and ensuring that completion schedules are adhered to as far as possible.

## ANNEXURE

No. 2(34)/69-BPE(GM)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

**Bureau of Public Enterprises**

*New Delhi, the 7th July, 1969.*

OFFICE MEMORANDUM

**SUBJECT:** *Responsibility of the administrative Ministries in regard to the performance of Public Enterprises*

---

The Committee on Public Undertakings (1967-68) in their Report on National Coal Development Corporation Ltd., has made the following recommendation (Rec. No. 74):

*"The Committee feel that the Ministry cannot also be absolved of the responsibility in regard to the affairs of NCDC. It is a pity that the Government although aware of the distressing conditions prevailing in NCDC, did not take any effective action all these years to improve matters. The Committee feel that the administrative Ministries must keep a closer watch over the performance of the public undertakings under their control and take remedial action in time."*

2. The observations of the Parliamentary Committee that the administrative Ministries should keep a closer watch over the performance of the Public Enterprises under their control and take remedial action in time are unexceptionable. It is also true that this is one of the normal functions of the Ministries/Departments, who do take necessary steps in this regard. However, there is obviously the need for laying down certain procedural requirements for ensuring the necessary accountability of the public enterprises to Government and Parliament. This is all the more necessary in the context of the various decisions which have been taken recently, pursuant to the recommendations of the Administration Reforms Commission in their Report on "Public Sector Undertakings" on the recommendations made by the Committee on Public Undertakings in their Report on "Financial Management", "Materials Management" etc., as well as on the

periodical reviews undertaken by Government on the performance of these enterprises. It may be mentioned that the Government's policy underlying these decisions may be broadly defined as follows:—

- (1) It is recognised that in order to enable these undertakings to work with greater autonomy, there should be sufficient delegation of powers to the Public Enterprises.
- (2) Simultaneously, every effort should be made to assist the enterprises to secure suitable managerial talent.
- (3) In addition, measures have to be taken and guidelines laid down for improving management techniques in all its various aspects in these enterprises.
- (4) There should be an effective machinery for periodical review and appraisal of their performance so that defects may be put right as speedily as possible.

In other words, substantial powers have now been delegated to the Public Enterprises relating to financial and administrative matters. While these enhanced powers have been conferred on the managements of the enterprises, the Government and the administrative Ministries will have to continue to be responsible for the performance of the enterprises, in accordance with the broad programmes and policies approved by Government.

3. Government have considered the directions in which action could be immediately taken for making the concept of accountability of these enterprises to Government effective and purposeful, within the framework of greater delegation of powers to these enterprises to be exercised in conformity with the guidelines issued on various facets of management, consequent to the policy decisions taken by Government. It has been decided that a beginning can be made for effective shouldering of Government responsibility in the running of Public Enterprises, which would be oriented more to the overall performance of the undertakings without going into matters of detail, in the following directions:

- (i) Suitable briefing of Government Directors on the Boards of Managements of Public Enterprises;
- (ii) Effective reporting system followed by Performance Review Meetings; and
- (iii) Periodical appraisals by the Bureau of Public Enterprises jointly with the administrative Ministry.

As regards (i), the administrative Ministries should develop appropriate arrangements for the briefing of their representatives on the Boards of the enterprises concerned. As regards (ii) the administrative Ministries should prescribe suitable reports and returns to assess their performance. What methodology should be followed for this purpose is for the Ministries to consider, since there cannot be uniformity in the matter. It has further been decided that the Secretary of the administrative Ministry concerned should hold a Performance Review Meeting with the Chief Executive individually, to discuss and analyse the contents of the performance reports of Enterprises *vis-a-vis* targets laid down for the year as well as for the individual quarters. At this meeting the Financial Adviser to the Ministry (or Deputy Finance Adviser as the case may be) could also be invited. Representatives from the Bureau of Public Enterprises would attend such meeting if invited to do so by the administrative Ministry concerned. The periodicity of such regular meetings to be held with the Chief Executives will be a matter to be decided by the Ministries themselves, having regard to nature and the number of units under their control and the urgency of the problems involved. Nevertheless such meeting should ordinarily be held not less frequently than once in six months. While holding these Performance Review Meetings the opportunity should also be taken to discuss any "clearing-house" items which the Chief Executives may like to bring up. A proper agenda for the meeting should be prepared in advance and minutes issued later, to be shown to Minister. Actions to be taken on such proceedings should also be followed up both by the administrative Ministries as well as the concerned enterprises. As regards (iii) the performance appraisals conducted by the Bureau of Public Enterprises of individual undertakings will continue.

4. Ministry of Steel and Heavy Engineering, etc., are requested to take action, as envisaged in the proceeding paragraph, in respect of the Public Enterprises under their administrative control.

(Sd.)

(P. K. BASU),

*Director, Bureau of Public Enterprises.*

To

All Ministries/Departments of the Government of India.

Copy to:

- (i) The Comptroller and Auditor General of India.
- (ii) Production Division/Adviser (C)/Adviser (F)/D.S. (I&R)/D.S. (BPE)/Plant/Finance Division.
- (iii) Heads of Expenditure Divisions in the Department of Expenditure (with 2 spare copies).

(Sd.)

(P. K. BASU),

*Director, Bureau of Public Enterprises.*

## APPENDIX X

GOVERNMENT OF INDIA

### MINISTRY OF PETROLEUM AND CHEMICALS AND MINES AND METALS

(Department of Petroleum)

No. 15(85)/70-OR

New Delhi, the 23rd March, 1971

#### OFFICE MEMORANDUM

**SUBJECT:** *Re-alignment/rectification of the section of the Haldia-Barauni Pipeline passing over the coal bearing areas—Appointment of an Expert Group to enquire into.*

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The Haldia-Barauni pipeline has been so aligned that a section of it stretches over the Raniganj coalfield area, between Ondal and Salanpur. In February, 1966, it was decided that a restrictive diversion of the pipeline avoiding the coal bearing areas may be undertaken. This diversion has been a subject matter of examination by Shri N. S. Rau and the Committee on Public Undertakings. In pursuance of their findings, the Government of India is pleased to constitute a Working Group of the following experts to study and report on the necessity of realignment/rectification of a section of the Haldia-Barauni pipeline passing over the coal bearing areas:—

- (i) Chief Technical Adviser to the Government of India, Ministry of Petroleum and Chemicals and Mines and Metals (Department of Mines and Metals)—Chairman.
- (ii) Director General, Mines safety.
- (iii) Mining Adviser to the Government of West Bengal
- (iv) Director, Central Mining Research Station, Dhanbad.
- (v) Representative of Indian Institute of Petroleum, Dehra Dun.
- (vi) Representative Oil and Natural Gas Commission.
- (vii) Representative of Oil India Ltd.
- (viii) CRPD Secretary.

2. Representatives of Engineers India Limited and Indian Oil Corporation (Pipelines Division) will be invitees to the meetings of the working group.

The Working Group will have the power to co-opt such members as it may consider necessary from time to time.

The terms of reference of the Group are as follows:—

- (1) (a) to examine the techniques of pipelines' laying and mining practices in relation to the properties involved in the functioning of a modern pipeline.
- (b) Behaviour of the oil pipelines in relation to the supporting strata and the likely subsidences in the latter.
- (c) to examine properties of oil and oil products, and their behaviour when in contact with soil or other strata.
- (d) The possibility of leakage from oil pipeline the extent to which the escaping oil/oil products from such pipelines can cause fire hazard.
- (2) After such examination to determine whether any realignment or rectification is necessary in the Haldia-Barauni pipeline to meet the needs of the situation. If realignment is considered necessary, the portion that needs to be realigned and the revised alignment to be adopted. If any rectification is required, the details thereof.
- (3) The cost of realignment/rectification.
- (4) Any safety measures, that are attendant on realignment/rectification, and which should be undertaken.
- (5) The Group should submit its report to the Government within a period of six months from the date of issue of this Memorandum.
- (6) The Headquarters of the Group will be at New Delhi.

(Sd.)

MADHAV RAJWADE,

*Joint Secretary.*

25-3-71.

To

All concerned. A copy of Shri N. S. Rau's Report and the relevant extracts of the Committee on Public Undertakings Report are enclosed.

**Extract of paras 7.35 to 7.52 of the Committee on Public Undertakings (1969-70) (Fourth Lok Sabha) Sixty-sixth Report, Indian Oil Corporation (Pipelines Division).**

7.35. The Committee regret to note that the entire question of laying the pipeline through the coal bearing area has not been dealt with care and caution it deserved. They note that Indian Technical opinions had been throughout against the laying of pipeline through the coal bearing area. The Mining Adviser to the West Bengal Government (on 17th September, 1963) followed by Chief Mining Adviser to the Ministry of Mines and Fuel (on 14th October, 1963) and Chief Inspector of Mines, Dhanbad (on 21st December, 1963) had emphatically and repeatedly objected to the laying of this pipeline through the coal bearing area. The foreign technical advisers of the Corporation, viz., Snam-Progetti/Bechtol however, held contrary views and categorically stated that no technical difficulty or risk was involved to the pipeline or to the coal bearing areas and insisted that the pipelines should be laid as suggested by them. Ignoring the warning of the Indian experts, I.R.L. accepted the advice of their foreign technical advisers and wrote as follows in their letter of January, 1964:

“There will be no danger to the pipeline if it is laid in the coal-mines and if any protective measures are necessary for the pipeline at certain specified points, they would be undertaken by the pipeline authorities and at the same time requested the Ministry to obtain necessary clearance from the Coal Mining experts.”

7.36. The Committee are surprised to find that Bechtols, the consultants of IRL in their letter, dated the 20th December, 1963, confirming that the crossing of Coal Mining areas presents no technical difficulties to the products pipeline stated categorically that from their experience of construction of pipeline in coal mining areas in the U.S.A., France and Germany no difficulty has been experienced. While accepting the advice, the Committee find that Bechtol did not point out any specific instance of a place or area in a foreign country where the pipeline has been laid through the coal fields.

7.37. The Committee find that while the question of laying pipeline through coal bearing areas was being discussed in November-December, 1963 in consultation with the Coal Mining Adviser to the Government of India, the Managing Director, Indian Refrneries Limited is on record as having stated at a meeting with representatives of Bechtols and snam regarding the locating of Rudrani Terminal that there will not be any



change in the alignment of the Haldia-Barauni Section of the Pipeline". This would suggest that the issue had been foreclosed at administrative level of Indian Refineries even while the discussions were going on with the Mining experts of the Government.

7.38. After the completion of project again in February, 1965 Bechtols representative in Delhi wrote to their principals in San Francisco Office asking for advice on the problem of laying pipelines across coalfields. The San Francisco Office replied on the 8th February, 1965 that in such matters "it would be necessary to obtain advice of a mining consultant engineer and they recommended that Shri C. J. J. Raju be consulted." The Committee find that Shri Raju in his report has *inter-alia* observed that during his visit to Jharia coalfields, he found that "safety pillars left below the town ship and public roadways are liable to be destroyed due to the fires in the neighbouring goafs and that crecks extended to the surface above the safety pillars were omitting smoke. Mr. Heaffert of Bechtols on his note on the visit to the coalfields on 8th April, 1965 noticed fire on the surface." In the opinion of Shri Raju "this hazard of the pipeline being exposed to hot smoke due to fire, etc., the cracks cannot be ruled out. This aspect of the problem did not seem to have been given the necessary consideration by snams Engineering while planning the layout of the pipeline even when the question of advisability of laying the pipeline was questioned, both Bechtols (consultants to IOC) and Snam (Design Contractors) did not seem to have studied it in all its aspects and given the necessary advice at that stage in which case the difficult problem could have been avoided." Shri Raju in his report also stated that it would be a desirable step to divert the pipeline or lay a new pipeline over nearby areas free from coal deposits."

7.39. The Committee further find that neither Indian Refineries Limited nor Government had consulted the Geological Survey of India or asked them to prepare the section showing the outlay of coal seams along the pipeline till Shri Raju specifically asked for the map which was prepared for the first time at his instance. Shri Raju in his report has mentioned that a number of collieries over which the pipeline passes *viz.* Sripur, Satram, Madhavpur etc. have gassy fires and that in some of these collieries, particularly old ones' where working has been discontinued, fires may start any time.

7.40. Shri Raju's report was discussed at a Inter-Ministry meeting on 8th February, 1966 and a decision was taken to "plan for a restricted diversion of the pipeline over the worked leased held areas within the next two or three years and the pipeline permitted to be in operation till then with proper safeguards."

7.41. It was ultimately decided by the IRL Board/Government on the Report of a Survey and Design team set up for the purpose to a diversion of 96 kms. to avoid the coalfields at a cost of Rs. 195 lakhs, which was sanctioned by the Government of India on 12th May, 1967.

7.42. The Committee feel that it is indeed unfortunate that the Government disregarded the opinion of the Indian Mining Experts and completely relied upon the advice of the foreign experts for laying the pipeline through the coalfields. As the events have proved, the view of the Indian experts have ultimately prevailed.

7.43. The other point that the Committee have noted with regret is that IRL made a commitment of providing necessary protective measures in the coalfield area without examining and knowing the financial implications for such a commitment and even without knowing fully that these protective measures would be. Curiously enough the protective measures were to cost Rs. 18 crores as against the laying of new pipelines which was to cost Rs. 2 crores. The Committee are extremely surprised to find that the IRL/Government had never applied its mind to the economics of the protective measures *vis-a-vis* the expenses of laying new pipelines which is unpardonable. What surprises the Committee most is that IRL/Government before making their commitment amounting to Rs. 18 crores for protective measures never deemed it necessary to seek the prior approval of the Finance Ministry which was obligatory.

7.44. The Committee find that Government consulted the Burma Oil Co. (Pipelines Division) in London in 1967 taking into account the fact that BOS pipelines Division were working as consultants to Oil India in Naharkatiya Barauni crude pipelines. The Committee feel that the expert advice should have been sought at an earlier date so that their recommendations about the use of regulated mining practice, adoption of hydraulic and stowing etc. could be brought to the notice of the mining experts and mining concerns for consideration and allay their fears. The Committee are also of the view that the Investigation Committee which was appointed in May, 1968 should have been appointed in 1963 when the Mining Advisers to the West Bengal Government and the Adviser to the Government of India had objected to the laying of pipelines through the coal bearing areas in no uncertain terms and if that was done all these lapses would not have occurred.

7.45. The Committee regret that the indifference of IRL/Government went to the extent of ignoring to ask for a third set of independent opinion before accepting the defective advice. The Committee is convinced that such gross indifference dereliction of duty of the official of Government/IRL being inexcusable, impartial inquiry followed by severe punishment of guilty officials for the lapses is called for.

7.46. The main contention of the IRL is not agreeing to consider the proposal for diversion of alignment of the pipeline through the coal-bearing area in 1963 and 1964 was that a decision to realign the pipeline would result in considerable delay. The Committee desired to know the estimate of the delay that would have been caused, but no precise reply was forthcoming from Government.

7.47. The Committee would like to point out in this connection the following two salient facts :—

The first contract for construction work was signed with Snam on 31st July, 1963. The First objection of the West Bengal Government Mining Adviser to the West Bengal Government to the proposed alignment of the pipeline through coal-bearing areas was raised on 18th September, 1963. The actual construction was started only in October, 1964.

7.48. It is also pertinent to recall that the Executive Project Report in the form of "drawings and specifications" came in piece-meal from 1963 till 1966 when the Project was completed.

7.49. Another reason put forward by IRL for not considering realignment of the pipeline is that it would have involved payment of damages to the contractors for down time for keeping their machines and men idle on the job. No estimate of the down time payment has been given to the Committee but judged from the actual rate of down time payment made to the contractor for non-availability of land etc., the Committee feel that its quantum would have been far less than the cost that would have been incurred for realigning the pipeline at that stage to avoid the coal-bearing area. The least that the Committee could expect from IRL/Government was that they should have carried out a most careful appraisal of the various alternatives such as cost of realignment and payment of down time *vis-a-vis* the grave hazard of pushing the pipeline through the coal mining area against the advice of mining experts of Government. The Committee have pointed out elsewhere in the Report how the existing alignment of pipeline through the coal-bearing area is alleged to have resulted in locking up of coal reserves to the tune of Rs. 3.50 crores and carried an implied commitment to the tune of Rs. 18 crores on stowing works to minimise the hazard of fire in the area surrounding the pipeline.

7.50. It is therefore, evident that in actual fact there was a time lag of over one year in the signing of the agreement and its execution which could have been used with prudence to go into all aspects of realignment and taken a decision in the overall interest of the Project.

7.51. Another fact which comes prominently to notice in this case is that complete reliance was placed by the Public Undertakings/Government on foreign companies for the preliminary project Report, executive project Report, Engineering details, project execution, design monitoring and management supervision without exercising their right to oversee and scrutinise their actions to ensure that they were in the best interest of the country. The object reliance on foreign companies went to the extent of rejecting outright the expert advice of Government's own Mining Engineers.

7.52. The Committee would like the Public Undertakings/Government to learn the lesson from this costly lapse that the responsibility for overseeing the work of foreign collaborators should in no circumstances be compromised and that vigilance should be exercised at every stage to hold the foreign collaborators responsible for discharging their obligations under the contract faithfully. Government should also take care to make adequate provision in the agreements to safeguard their right to recover money for damages suffered or shortfalls in capacity as compared to the designed capacity contracted and paid for.

## APPENDIX XI

### DEPARTMENT OF PERSONNEL

#### A V D

**SUBJECT:—**Disciplinary proceedings against Shri P. R. Nayak, (retd.)

Shri P. R. Nayak, was due to retire from service on 25th November, 1970 after completing 35 years of service. However, the services of Shri Nayak, were extended upto the 25th March, 1971 under the proviso to clause (f) of F.R. 56.

2. Meanwhile, it was decided that Shri J. N. Takru, Chairman Pipeline Inquiry Commission, should be requested to let the Government have his opinion as to whether, and in respect of which charges, *prima facie* case seemed established for departmental action against Shri Nayak. Shri Takru submitted his preliminary enquiry report on 13th January, 1971 in which he stated that there was *prima facie* case against Shri Nayak on 13 charges. Shri Nayak was placed under suspension on 23rd March, 1971 on the ground that disciplinary proceedings against him were contemplated. At the time of passing of the suspension order, ruling of the Supreme Court was available in two cases *viz.* those of Shri S. Govinda Menon and Shri T. N. Ghosh, that a member of an All India service could be suspended when disciplinary proceedings against his were contemplated. By placing Shri Nayak under suspension his services automatically stood extended by virtue of clause (ff) of F.R. 56 which provides that a member of the Indian Civil Service who is under suspension on a charge of misconduct, shall not be required or permitted to retire on reaching the date of compulsory retirement but shall be retained in service until the enquiry into the charge is concluded and a final order is passed thereon by the competent authority.

3. Shri Nayak, filed a writ petition in the Delhi High Court against the order of suspension. The petition was dismissed by the High Court on 6th May, 1971. The High Court however, granted to Shri P. R. Nayak Certificate of Fitness for appeal to the Supreme Court. Shri Nayak filed his appeal in the Supreme Court on 20th May, 1971.

4. In the meanwhile, charge sheet was issued to Shri Nayak on 22nd July, 1971 on the basis of the preliminary report of Shri J. N. Takru, Shri B. R. Tandon Special Commissioner for Departmental Enquiries in the

Central Vigilance Commission, was appointed Inquiry Officer on 17th August, 1971 to enquire into the charges against Shri Nayak. The Inquiry Officer submitted his report on 30th November, 1971.

5. The Supreme Court in their judgement dated 7th December, 1971 by majority of 4:2 accepted the appeal of Shri Nayak and quashed the order of his suspension. They distinguished their earlier judgement in the case of Shri S. Govinda Monon and reversed the judgement in case of Shri T. N. Ghosh and held that an order of suspension before the actual initiation or commencement of the disciplinary proceedings was outside the ambit of Rule 3(1) of the AIS (D&A) Rules 1969, and they found no cogent grounds for straining the plain language of Rule 3(1) *ibid* so as to extend it to cases in which disciplinary proceedings were merely contemplated and not actually initiated or commenced. The effect of quashing by the Supreme Court of the order of suspension was that Shri Nayak was deemed to have retired. There is no provision for taking or continuing disciplinary action against a member of the Indian Administrative Service who, before becoming such member was a member of Indian Civil Service, after his retirement. The disciplinary proceedings against Shri P. R. Nayak, have, therefore, lapsed in the circumstances.