

**STATE TRADING CORPORATION OF  
INDIA LIMITED — IMPORT OF  
NEWSPRINT**

**MINISTRY OF COMMERCE**

**COMMITTEE ON  
PUBLIC UNDERTAKINGS  
1993-94**

**TENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**THIRTIETH REPORT  
COMMITTEE ON PUBLIC  
UNDERTAKINGS  
(1993-94)**

**(TENTH LOK SABHA)**

**STATE TRADING CORPORATION OF INDIA LIMITED —  
IMPORT OF NEWSPRINT**

**MINISTRY OF COMMERCE**

*[Action taken by Government on the recommendations contained in the  
23rd Report of the Committee on Public Undertakings (Tenth Lok Sabha)]*



*Presented to Lok Sabha on 18.3.1994  
Laid in Rajya Sabha on 18.3.1994*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*March, 1994 / Phalguna, 1915 (Saka)*

**C.P.U. No. 732**

*Price: Rs. 8.00*

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and Printed by the Manager, P.L. Unit, Govt. of India Press, Minto Road, New Delhi-110002.

CORRIGENDA TO THE 30TH REPORT OF  
 CPU (1993-94) ON STATE TRADING  
 CORPORATION OF INDIA LTD. -  
 IMPORT OF NEWSPRINT.

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COMMITTEE ON PUBLIC UNDERTAKINGS  
(1993-94)

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2. Smt. P. K. Sandhu — *Deputy Secretary*
3. Shri P. K. Grover — *Under Secretary*

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\* Ceased to be a Member of the Committee consequent on appointment as Minister in the Council of Ministers w.e.f 17th February, 1994.

\*\* Elected w.e.f. 12.8.1993 vice Shri Sunil Basu Ray ceased to be Member w.e.f. 9.7.1993 consequent on his retirement from Rajya Sabha.

**ACTION TAKEN SUB-COMMITTEE OF THE COMMITTEE ON  
PUBLIC UNDERTAKINGS (1993-94)**

1. Shri Vilas Muttemwar — *Chairman*
2. Shri Basudeb Acharia — *Convener*
3. Shri Chetan P. S. Chauhan
4. Shri R. K. Dhawan
5. Shri V. Narayanasamy

## INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this Thirtieth Report on Action Taken by Government on the recommendations contained in the Twenty-Third Report of the Committee on Public Undertakings (Tenth Lok Sabha) on State Trading Corporation of India Limited—Import of Newsprint.

2. The Twenty-Third Report of the Committee on Public Undertakings (1992-93) was presented to Lok Sabha on 30th April, 1993. Replies of the Government to all the recommendations contained in the Report were received on 1st November, 1993. The replies of Government were considered by the Action Taken Sub-Committee of the Committee on Public Undertakings on 10th February, 1994. The Committee also considered and adopted this Report at their sitting held on 10th February, 1994.

3. An analysis of the action taken by Government on the recommendations contained in the Twenty-Third Report (1992-93) of the Committee is given in Appendix II.

NEW DELHI;  
*March 1, 1994*  

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*Phalgun 10, 1915 (Saka)*

VILAS MUTTEMWAR,  
*Chairman,*  
*Committee on Public Undertakings.*



## CHAPTER I

### REPORT

The Report of the Committee deals with the action taken by Government on the Recommendations contained in the Twenty-Third Report (Tenth Lok Sabha) of the Committee on Public Undertakings on State Trading Corporation of India Ltd.—Import of Newsprint which was presented to Lok Sabha on 30th April, 1993.

2. Action Taken notes have been received from Government in respect of all 13 recommendations contained in the Report. These have been categorised as follows:—

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

Sl. Nos. 1, 2-3, 4-5, 6, 7 and 8.

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

Sl. No. 9.

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

Sl. Nos. 10, 11-12.

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

Sl. No. 13.

3. The Committee desire that the final reply in respect of recommendation at Serial No. 13 for which only interim reply has been given by Government should be furnished to the Committee expeditiously.

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

#### *A. Probe into Universal Case*

*(Recommendation Sr. Nos. 2-3 and 4-5)*

5. The Committee had noticed that in one of the cases, STC entered into a contract with Universal Paper Export Co., Canada initially on 30.3.1991 for supply of 5000 MTs of glazed newsprint and again on 15.5.1991 for supply of another 5000 MTs glazed newsprint. The first stage results of samples of the first consignment of about 2300 MTs of glazed newsprint tested in the departmental laboratory in the Bombay Custom House was satisfactory. Customs however issued a show cause notice to

STC on the basis of subsequent test results of samples sent to the three laboratories which indicated that the goods did not tally with the declarations made in the Bills of Entry. At this stage STC abandoned the consignment. The retests conducted on the direction of Bombay High Court at supplier's intervention however revealed that the consignment conformed to the declarations made. STC still maintained their original decision to abandon the goods. The total cost involved in this case taking into account all demands of the supplier was stated to be approx. Rs. 20 crores.

The Committee were shocked to find that the decision taken by the Chairman & Managing Director of STC to abandon the goods supplied by Universal Company was not preceded by any systematic evaluation of the commercial and legal implications of all the options available to STC. While bringing out the failure on the part of the CMD to exercise care and caution in deciding the course of action, the Committee had expressed the view that the CMD being head of the Institution and responsible for taking all important decisions himself was to be blamed. The Committee were surprised to notice that STC did not think it proper though there was a valid ground for STC to contest the show cause notice and to get retest of samples done by the customs. According to the Ministry of Commerce also, the case suffered because of gross administrative negligence on the part of STC which acted in a totally irresponsible and unprofessional manner.

Besides, the Committee had also expressed distress at the role played by the three laboratories in this case viz. (i) Central Revenue Control Laboratory, New Delhi, (ii) Indian Institute of Packaging, Bombay and (iii) Central Paper and Pulp Research Institute, Saharanpur. All the three laboratories initially reported that the samples tested by them did not conform to the declarations made in the Bill of Entry. However, when samples were sent again for retesting all the three laboratories surprisingly indicated that the goods conform to the specifications.

According to the Committee this was a fit case—which required a thorough probe to be made into the various aspects of the case without further loss of time. They, therefore, had recommended that the matter be referred to CBI and they be intimated of the fact of such reference within 3 weeks from the date of presentation of this Report.

6. In their reply, the Government have stated that in view of the divergent opinions expressed within STC and the conflicting test reports of the laboratories, STC took a commercial decision to abandon the goods. However, as a result of the review of the case conducted in the Ministry of Commerce, it had been noticed that the case had suffered because of gross administrative negligence.

After considering the recommendation of the Committee on Public Undertakings for referring the matter to CBI, the case was referred

to CBI on 21st June, 1993 by the Ministry of Commerce for a thorough probe into the deal by STC with M/s. Universal Paper Export Company Ltd., Canada. Further necessary action for identification of lapse(s) and the level(s) at which such lapse(s), if any, were committed, would be possible only after the receipt of the CBI report. In view of this, the findings of CBI need to be awaited before arriving at final conclusion in the case.

7. While noting that pursuant to the Committee's recommendation Government have referred the case to CBI for a thorough probe, the Committee regret to find that no mention has been made about the Committee's recommendation of enquiring into the reasons for contradictory test reports from the three laboratories of the Department of Revenue. They expect the replies to their recommendation to be complete and expressed in unambiguous terms. The Committee, therefore, desire that the probe by CBI must also uncover the dubious role played by the three laboratories. They also desire that Government should urge the CBI to expeditiously complete their investigations into this as well as other cases pointed out by the Committee in their earlier Report. The Committee would await the report of the CBI and desire that they be apprised of the results of the CBI enquiry as well as the action taken by the Government thereon.

#### *B. Role of Government Directors*

*(Recommendation Sr. No. 10)*

8. The Committee had pointed out that no cognizance of the universal case was taken by the Commerce Ministry's representative on the Board in the wake of the controversies surrounding the case and no detailed review of all the aspects of the transaction was undertaken by the Ministry inspite of gross administrative negligence on the part of CMD of STC. The Committee had, therefore, held that the Government Directors in the Board of STC were not discharging their role effectively. It was their specific responsibility to effectively act as the eyes, ears and hands of the Government, keep a close watch on the performance of the undertaking and ensure timely corrective steps when and where called for.

9. In their reply, the Government have stated that as far as the Universal case was concerned, the matter was taken cognizance for the first time in May, 1992 when the Canadian High Commissioner met the then Commerce Minister in this regard. Subsequently, the Joint Secretary, administratively concerned with STC held discussion on some of the issues involved in this case at a meeting held on 17.9.1992 and this Ministry came to the conclusion that STC had acted in an unprofessional manner in this case and accordingly specific advice was given to STC in October and November, 1992. Prior to this, the issue had never been placed before the Board of Directors of STC and hence the question of Government Directors initiating corrective measures did not arise. The issue was discussed in the Board meeting of STC for the first time on 15.1.1993 and

further deliberated in the meeting held on 17.3.1993 and it was considered appropriate for STC to reopen the dialogue with the Company. Pursuant to it, a meeting of the representatives of the foreign party and STC was held on 12.5.1993 to discuss the issue. Subsequently, STC received a letter from M/s. Universal in which the Company reiterated the claim for not only the value of goods but interest and other claims also. STC in its reply of 22nd July, 1993 to the party has *inter-alia* denied their liability, financial or otherwise in regard to the contract.

Accordingly it would be seen that there was no failure on the part of the Government Directors or the Ministry in discharging their responsibility while dealing with this issue.

10. It is disquieting to note from the Government's reply that Government took cognizance of the Universal case for the first time only in May 1992 only when the Canadian High Commissioner met the then Commerce Minister in this regard while the same became much controversial as early as June 1991. The Committee are dismayed to note further, that this issue was discussed by STC Board for the first time only in January, 1993. The Committee are at a loss to understand how despite these facts revealed by Government themselves, the Government are claiming that there was no failure on the part of Government Directors on STC Board or the Ministry in discharging their responsibility. The Committee, therefore, desire that Government should frame and issue some guidelines/directions to their representatives on the Board of Directors of all Public Undertakings to be more vigilant and act swiftly more particularly in such cases which are or become controversial in nature. The Committee would also like to be apprised of the action taken by the Government towards implementation of this recommendation.

### *C. Settlement of Afnan Case*

*(Recommendation Sr. Nos. 11-12)*

11. The Committee's examination had revealed that M/s. Afnan Exports had been enrolled as associated suppliers of STC and an agreement was signed on 13.12.91 for export of 500 tonnes of Alphonso mangoes. STC, however, failed to honour the contract on the plea that M/s. Afnan could supply only 2.5 tonnes (two and half tonnes) of Alphonso mangoes and M/s. Afnan was unable to supply even the initial trial consignments in conformity with the required standard and quality. M/s. Afnan made a claim of Rs. 1.55 crores. Following STC's refusal to admit this claim M/s. Afnan had been pleading for arbitration of the case for settlement. The Committee in this connection had referred to their recommendation made in the Ninth Report (1992-93) on 'Litigation pending for settlement in Public Undertakings' wherein the Committee had recommended that in all existing contracts/agreements where there is no clause for arbitration, the arbitration should be deemed to exist and that in all such cases the dispute should be referred to Indian Council of

Arbitration for conciliation/negotiation within a period of one month failing which the same be referred to arbitration by the Indian Council of Arbitration for making an award within a period of six to nine months unless the contract/agreement expressly prohibits recourse to reconciliation or arbitration. The Committee had, therefore, desired that the dispute regarding M/s. Afnan Exports should also be settled first by negotiation as was directed by the then Minister of Commerce in June, 1991 failing which it be referred to Indian Council of Arbitration where eminent Judges/Jurists are on the panel.

12. In their reply, the Government have stated that the matter has been considered further by the Government and STC has been advised to give another opportunity to M/s. Afnan Exports to file the details of their claims regarding damages which can be scrutinised by STC for out-of-court settlement, if possible. The Committee would be apprised of the action taken by STC in this regard in due course of time.

13. The Committee regret to note that Government have still not taken a final decision in the matter. The Committee are further constrained to observe that Government did not take cognizance of the Committee's earlier recommendation made in the Ninth Report (1992-93) on 'Litigations pending for settlement in Public Undertakings' in this regard and that no valid and convincing grounds for not implementing the recommendations of the Committee have been put forth by the Government. The reply furnished by Government creates an impression in the Committee's mind that Government have reservations even with regard to the recommendations contained in both the Ninth and Twenty-Third Reports of the Committee. The Committee expect Government to implement their recommendations in their true letter and spirit. The Committee need hardly stress that the Government should take steps expeditiously to refer the case of M/s. Afnan Exports to arbitration so as to resolve the dispute.

*D. Prosecution of Officials in Haria case*

*(Recommendation Sr. No. 13)*

14. The Committee on Public Undertakings (1989-90) had observed that in spite of vigilance findings that undue favours were shown to M/s. Haria Exports no action had been taken against any of the defacing officers of STC. The CBI which investigated this case observed in its report dated 29.6.92 that there was sufficient material for launching prosecution against six managers and departmental action against two officials in respect of M/s. Haria Exports. STC however appeared to be scuttling the case by taking a stand that there were not sufficient reasons to sanction prosecution of these managers on the basis of the evidence collected by the CBI. The Committee felt that the top hierarchy of STC was trying to shield the corrupt officials by thwarting prosecution against the latter for whatever reasons. They had urged that no time should be lost in taking prosecution proceedings against those found guilty by CBI and

suitable departmental action should be taken against the other officers also immediately.

15. In their reply, the Government have stated that the report of CBI in this case was received by STC in June, 1992 requesting for sanction of prosecution against STC officials involved in this case. After examining the CBI report in consultation with its Legal Division, STC opined that there was no substance in the allegation and conveyed its view to CBI duly informing CVC. In February, 1993 CBI advised STC to refer the case to the Ministry of Law for further advice as the decision was taken by CBI in consultation with that Ministry. In May, 1993 STC *inter-alia* suggested to CBI that the case alongwith all relevant documents/evidence could be discussed, if CBI was not satisfied with STC's view point. It was also mentioned by STC that the Ministry of Law would not entertain any direct reference from it. Subsequently, CBI has taken up the matter with CVC in August, 1993 requesting them to communicate their clear advice to them in the matter which is still awaited.

16. The Committee are dismayed that despite CBI findings Government have not launched prosecution of guilty STC officials and legal/procedural hurdles are now being raised by STC. The reply of the Government also does not specify as to what facts led them now to arrive at the decision that there was no substance in the earlier allegations against STC officers unduly favouring M/s. Haria Exports which have already been substantiated by CBI in their findings. The Committee desire that the advice of CVC/Law Ministry if necessary should be obtained expeditiously in order to initiate suitable action against the guilty officers. They would also like to be apprised of the action taken in this matter at the earliest.

## CHAPTER II

### RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation Serial No. 1

The Committee's examination of import of newsprint by STC has revealed gross administrative negligence, grave irregularities, serious lapses and malpractices in the purchase of newsprint from foreign suppliers. Contracts of newsprint purchases regarding few such cases are dealt with in the succeeding paragraphs.

#### Reply of the Government

While noting the recommendation for guidance being of general nature, STC has been advised to evolve appropriate internal procedures to avoid such lapses/irregularities in future.

[Ministry of Commerce, O.M. No. 14/5/92-FT(ST), dated 29.10.93]

#### Recommendation Serial Nos. 2 & 3

In one case, STC entered into a contract with Universal Paper Export Co., Canada initially on 30.3.91 for supply of 5000 MTs of glazed newsprint and again on 15.5.91 for supply of another 5,000 MTs glazed newsprint. The first consignment of about 2,300 MTs of glazed newsprint supplied by the Universal Co. arrived at Bombay Port on 12.6.91. The first stage results of samples tested in the departmental laboratory in the Bombay Customs House was satisfactory. Customs however issued a show cause notice to STC on the basis of subsequent test results of samples sent to the three laboratories which indicated that the goods did not tally with the declarations made in the Bills of Entry. At this stage STC abandoned the consignment. The retests conducted on the direction of Bombay High Court at supplier's intervention however revealed that the consignment conformed to the declarations made. Even at this stage STC maintained their original decision to abandon the goods. The total cost involved in this case taking into account all demands of the supplier is stated to be approx. Rs. 20 crores. The Committee are distressed to find that handling of this case by various organisations left much to be desired.

The Committee are shocked to find that the decision taken by the Chairman & Managing Director of STC to abandon the goods supplied by Universal Co. was not preceded by any systematic evaluation of the commercial and legal implications of all the options available to STC. The Committee are distressed that there was failure on the part of the CMD to

place this matter before the Board of Directors and to obtain its decision in a case such as this which involves not only crores of rupees but the image of the country as well. The circumstances of this case indicated below clearly shows that there was unmistakable failure on the part of the CMD to exercise care and caution in deciding the course of action.

- The fact that STC was satisfied about the correctness of the specifications contained in the preshipment inspection certificate of SGS who was an internationally reputed agency.
- Substantial low price of the glazed newsprint supplied by the Universal Co. to break the cartel which had been existing for long.
- Non-clearance of the material under provisional duty bond-even after the opinion of the solicitor Shri Pochkhanwalla, who had opined in clear terms that even if PDB is furnished STC, still had the option to contest the case before the appellate authority in customs, failing which they could also go to the Supreme Court.
- STC's knowledge about rival suppliers' motivated publicity campaign in the national press having lost the captive market.
- The view of STC's Counsel that abandoning the goods will be burning the bridges and that automatically does not absolve STC from the liability.
- That the newsprint supplied by Universal could not in any case be the expensive Light Weight Coated paper at the price at which STC had contracted the newsprint.

The Committee are surprised to notice that STC did not think it proper though there was a valid ground for STC to contest the show cause notice and to get retest of samples done by the customs.

According to the Ministry of Commerce also, the case suffered because of gross administrative negligence on the part of STC which acted in a totally irresponsible and unprofessional manner. The Committee are in agreement with the Ministry that by inefficient handling of the case STC has not only brought upon itself considerable financial loss but also discredit to the country. In Committee's view the CMD being head of the Institution and responsible for taking all important decisions himself is to be blamed. They do not appreciate the shifting of the burden on his part on to the officers who are junior to him. The Committee are of the firm view that safe-guarding the commercial interests of public sector undertaking is the prime responsibility of the Chief Executive and any person who fails to discharge his duties in this regard has no moral right to continue and more so when it is a commercial undertaking like STC.



### **Reply of the Government**

In view of the divergent opinions expressed within STC and the conflicting test reports of the laboratories, STC took a commercial decision to abandon the goods. However, as a result of the review of the case conducted in the Ministry of Commerce, it had been noticed that the case had suffered because of gross administrative negligence. The matter has already been referred to CBI for a thorough probe, which would no doubt unravel the curious course of events of the case. In view of this, the findings of CBI need to be awaited before arriving at a final conclusion in the case.

[Ministry of Commerce, O.M. No. 14/5/92-FT (ST), dated 29.10.93]

### **Comments of the Committee**

(Please see Paragraph No. 7 of Chapter I of the Report)

### **Recommendation Serial Nos. 4 & 5**

The Committee are also distressed at the role played by the three laboratories in this case viz. (i) Central Revenue Control Laboratory, New Delhi (ii) Indian Institute of Packaging, Bombay and (iii) Central Paper and Pulp Research Institute, Saharanpur. All the three laboratories initially reported that the samples tested by them did not conform to the declarations made in the Bill of Entry. When samples were sent again for retesting all the three laboratories surprisingly indicated that the goods conform to the specifications. Considering the test results at the first, third and fourth stages the Committee can not but conclude that there appeared to be a definite bias in the initial test reports of these laboratories reasons for which are not known. What dismays the Committee is that the Ministry of Finance (Deptt. of Revenue) have also not thought it fit to enquire into the reasons for contradictory test reports of these three laboratories inspite of the fact that their original test reports necessitated seizure of cargo with inevitable consequences.

The Customs and the Deptt. of Revenue have also not acquitted themselves creditably. It is regrettable that the credentials of the informer was not verified nor the information provided by him properly ascertained by the different wings of customs. The Revenue Secretary was frank enough to admit that there was lack of coordination in this regard. Evidently, sufficient care and caution was not exercised nor the common sense used by the Deptt. of Revenue in this case even when the facts and circumstances of import of newsprint from Universal Co. were appraised by STC. The Committee find that this is a fit case which require a thorough probe to be made into the various aspects of the case without further loss of time. They recommend that the matter be referred to CBI and they be intimated of the fact of such reference within 3 weeks from the date of presentation of this Report.

### Reply of the Government

After considering the recommendation of the Committee on Public Undertakings for referring the matter to CBI, the case was referred to CBI on 21st June, 1993 by the Ministry of Commerce for a thorough probe into the deal by STC with M/s. Universal Paper Export Co. Ltd. Canada. Further necessary action for identification of lapse(s) and the level(s) at which such lapse(s), if any, were committed, would be possible only after the receipt of the CBI report.

[Ministry of Commerce, O.M. No. 14/5/92-Ft (ST), dated 29.10.93]

### Comments of the Committee

(Please see paragraph No. 7 of Chapter I of the Report)

### Recommendation Serial No. 6

The Committee's examination of import of newsprint from M/s. Meteor Papers Ltd. London has brought out startling disclosures. The supplier had deliberately misdeclared the origin of the goods as that of Hungarian instead of Romanian thereby causing misuse of foreign exchange to the extent of as much as over US \$ one million. That the STC had not cared to verify the mill of origin before accepting the newsprint of Hungarian origin indicates not only the serious lapse on the part of STC but also collusion with the supplier. The manufacturer's certificates purportedly issued by M/s. Lignimpex were bogus and forged. The Committee note that on suppliers' default to ship the quantity by the stipulated date, STC decided to cancel the contract for unshipped quantities and invoke the performance bank guarantees of the suppliers on 1.1.1991 amounting to US \$ 6.44 lakhs.

What is more disappointing is that CMD met the foreign supplier at his residence on 2.11.1991 (*i.e.* Holiday) and issued orders that forfeiture of performance bank guarantee be deferred by four weeks and on Sunday the instructions to this effect were sent to the bank. No senior officer from Finance was consulted in this regard. Urgency for taking such an important decision at his level without even placing the same before the Board speaks for itself. Release of payment was also ordered by CMD when Director (Finance) was away on tour for two days and it was only after objections were raised by Director (Finance) and then Minister of Commerce intervened that the payment was stopped. The instructions in the letter of Secretary (Finance) were also ignored with impunity. The Committee are constrained to observe that taking up such important decisions at his level without the matter being placed before the Board casts reflection on the intent and motive of the CMD. Besides, the arrest of Indian ship at ANTWERP (Belgium) not only lowered the prestige and image of the country but also resulted in eroding the credibility of STC as an international trading house. The Shipping Corporation of India got the vessel released on furnishing indemnity bond of US \$ 5.13 million against STC's bill value of US \$ 3.49 million. This necessitated STC arriving at a

commercial settlement with the supplier which STC did. The Committee desire that the results of the CBI inquiry and action taken at each stage be intimated to the Committee.

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

The recommendation has been noted and the Committee on Public Undertakings would be suitably apprised of the results of the CBI enquiry as well as the action taken by the Government thereon at each stage after the receipt of the report.

[Ministry of Commerce, O.M. No. 14/5/92-FT(ST), dated 29.10.93]

#### **Recommendation Serial No. 7**

The case relating to import of newsprint from FINNPAP reveals grave irregularities and malpractices besides the irresponsibility exhibited by those at the helm of affairs. There were manipulations in the tabulation of tenders placed before Newsprint Purchase Committee (NPC) on 16 October, 1991. Apparently no control was exercised to check the correctness of information placed before the NPC. Nor did NPC bother about the details of information placed before it. The FINNPAP was shown cheaper by 31 cents as compared to the price of Kemmenyc. NPC expectedly decided in favour of FINNPAP for supply of 9,000 MTs plus 5,000 MTs (optional) of glazed newsprint. What irks the Committee more was that the option clause in this case was exercised on 30.12.91 with the explicit knowledge of declining prices. The order placed on exercising option clause was at the rate of US \$ 609 PMT as against the prevailing market rate of US \$ 500 PMT. The extent of irresponsibility displayed by those involved in this decision is not expected from any quarter.

The order placed with FINNPAP was subsequently cancelled. The Committee understand that the CBI has registered a case in this regard and is investigating the matter. The Committee would like to be informed of the outcome of the CBI investigation and the action taken thereon.

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

The recommendation has been noted and the Committee on Public Undertakings would be suitably apprised of the result of the CBI investigation as well as the action taken thereon after the receipt of the CBI report.

[Ministry of Commerce, O.M. No. 14/5/92-FT(ST), dated 29.10.93]

#### **Recommendation Serial No. 8**

The Committee find that in the case relating to M/s. Sukab also there were serious irregularities such as failure to provide any contract for counter trade although M/s. Sukab had given a guarantee to this effect, conversion of rupee contract into Dollar contract and pegging the conversion to STC's disadvantage by nearly 11%. The CBI is reportedly enquiring into this case also.

**Reply of the Government**

The recommendation has been noted. Since the matter is already under reference to CBI, further necessary action would be taken after the availability of the findings of CBI and the Committee on Public Undertakings would also be apprised of the action taken thereon. Since this reference was made by STC we need to write to them to keep us informed of the progress of the CBI investigations.

[Ministry of Commerce, O.M. No. 14/5/92-FT(ST), dated 29.10.93]

## **CHAPTER III**

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

#### **Recommendation Serial No. 9**

The Committee feel that without CMD's tacit concurrence most of the shady deals which have been highlighted by the Committee in this report would not have fructified at all.

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

In order to have fair, impartial & thorough enquiries into the various commercial deals entered into the STC for import of newsprint, these cases have already been referred to CBI. In view of this, the findings of CBI need to be awaited before arriving at a final conclusion in such cases. The CBI investigation reports would reveal the magnitude of lapse(s) as well as the level(s) at which the lapses were committed. Necessary corrective action would be taken thereafter.

[Ministry of Commerce, O.M. No. 14/5/92-FT(ST), dated 29.10.93]

## CHAPTER IV

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

#### Recommendation Serial No. 10

The Committee are of the firm view that the Government Directors in the Board of STC were not discharging their role effectively. It is their specific responsibility to effectively act as the eyes, ears and hands of the Government, keep a close watch on the performance of the undertaking and ensure timely corrective steps when and where called for. The Committee are disturbed to find that no cognizance of the case was taken by the Commerce Ministry's representative on the Board in the wake of the controversies surrounding the Universal Case. No detailed review of all the aspects of the transaction was undertaken by the Ministry inspite of gross administrative negligence on the part of CMD of STC. The Committee expect Commerce Ministry and their representatives in STC's Board not to be found wanting in the discharge of their duties in future.

#### Reply of the Government

In so far the Universal case mentioned in the recommendation is concerned, it is submitted that as already intimated by the Ministry of Commerce in its earlier written reply, the matter was taken cognizance for the first time in May, 1992 when the Canadian High-Commissioner met the then Commerce Minister in this regard. Subsequently, the Joint Secretary, administratively concerned with STC held discussions on some of the issues involved in this case at a meeting held on 17.9.1992 and this Ministry came to the conclusion that STC had acted in an unprofessional manner in this case and accordingly specific advice was given to STC in October, '92 and November, '92. Prior to this, the issue had never been placed before the Board of Directors of STC and hence the question of Govt. Directors initiating corrective measures did not arise. Though the issue was put up before the STC Board in its two meetings held on 10.12.1992 and 23.12.1992, but it was deferred due to certain administrative reasons. The issue was discussed in the Board meeting of STC for the first time on 15.1.1993 and further deliberated in the meeting held on 17.3.1993. While taking a view that the issue raised ought to be settled within the terms of the contract, it was considered appropriate for STC to reopen the dialogue with Company. Pursuant to it, a meeting of the representatives of the foreign party and STC was held on 12.5.1993 to discuss the issue.

Subsequently, STC received a letter from M/s Universal in which the Company reiterated the claim for not only the value of goods but interest and other claims also. STC in its reply of 22nd July, 1993 to the party has *inter-alia* denied their liability, financial or otherwise in regard to the contract.

In view of the above position, it would be seen that there was no failure on the part of the Govt. Directors or the Ministry in discharging their responsibility while dealing with this issue.

[Ministry of Commerce O.M. No. 14/5/92/FT (ST) dated 29.10.93]

### Comments of the Committee

(Please see Paragraph No. 10 of Chapter I of the Report)

### Recommendation Serial Nos. 11 & 12

When the Committee was in the thick of the examination of this sordid affair relating to import of newsprint by STC, suddenly a news item appeared in the press under the caption, "Will Antulay succeed in squeezing STC" making a reference to STC's contract with M/s Afnan Exports for export of Alphonso mangoes. The Study Group which considered the news item felt that since the news item referred to the person of the Chairman, it in fact cast aspersion on the functioning of the Committee as a whole. The matter was placed before the full Committee which decided unanimously to call for all the files and papers from STC and Ministry of Commerce relating to this contract in order to ascertain the correctness of the facts of the news item which was almost defamatory in nature. The Committee, on considering all relevant fact and studying all papers, documents and files received from STC and Commerce Ministry came to the conclusion that it is a clear case which involves a question of breach of privilege and therefore, needs to be referred to the Committee on privileges. However, the Committee felt that since the name of the Chairman of the Committee is involved, the Committee would rather drop the idea to refer the matter to the Privileges Committee and be content with showing their utmost displeasure on such pressure tactics of STC.

The Committee's examination of this case reveals that M/s Afnan Exports had been enrolled as associate suppliers of STC and an agreement was signed on 13.2.1991 for export of 500 tonnes of Alphonso mangoes. STC, however, failed to honour the contract on the plea that M/s Afnan could supply only 2.5 tonnes (two and half tonnes) of Alphonso mangoes and M/s Afnan was unable to supply even the initial trial consignments in conformity with the required standard and quality. The Committee, however, find that the former Executive Director of STC had informed the then Commerce Minister that the packaging and quality of Alphonso mangoes supplied by M/s Afnan Exports were found to be excellent and to

the satisfaction of foreign buyers/customers. M/s Afnan has since made a claim of Rs. 1.55 crores. Following STC's refusal to admit this claim M/s Afnan has been pleading for arbitration of the case for settlement. The Committee in this connection refer to their recommendation made in the Ninth Report (1992-93) on 'Litigation pending for settlement in Public Undertakings' wherein the Committee had recommended that in all existing contracts/agreements where there is no clause for arbitration, the arbitration should be deemed to exist and that in all such cases the dispute should be referred to Indian Council of Arbitration for conciliation/negotiation within a period of one month failing which the same be referred to arbitration by the Indian Council of Arbitration for making an award within a period of six to nine months unless the contract/agreement expressly prohibits recourse to reconciliation or arbitration. The Committee, therefore desire that the dispute regarding M/s Afnan Exports should be settled first by negotiation as was directed by the then Minister of Commerce in June, 1991 failing which it be referred to Indian Council of Arbitration where eminent Judges/Jurist are on the panel. The Committee would like to be informed of the action taken in this regard within a month.

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

As desired by the Committee, a reply was sent to the Lok Sabha Secretariat on 11.6.1993 explaining the position therein for information of the Committee on Public Undertakings. However, thereafter the matter has been considered further by the Government and STC has been advised to give another opportunity to M/s Afnan Exports to file the details of their claims regarding damages which can be scrutinised by STC for out-of-court settlement, if possible. The Committee on Public Undertakings would be apprised of the action taken by STC in this regard in due course of time.

[Ministry of Commerce O.M. No. 14592-FT(ST) dated 29.10.1993]

#### **Comments of the Committee**

(Please see Paragraph No. 13 of Chapter I of the Report)



## CHAPTER V

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

#### Recommendation Serial No. 13

The Committee on Public Undertakings (1989-90) had observed that inspite of Vigilance findings that undue favours were shown to M/s Haria Exports, no action had been taken against any of the dealing officers of STC. The CBI which investigated this case observed in its report dated 29.6.92 that there is sufficient material for launching prosecution against six managers and departmental action against two officials in respect of M/s Haria Exports. STC however appears to be scuttling the case by taking a stand that there were not sufficient reasons to sanction prosecution of these managers on the basis of the evidence collected by the CBI. It appears to the Committee that the top hierarchy of STC is trying to shield the corrupt officials by thwarting prosecution against the latter for whatever reasons. The Committee would urge that no time should be lost in taking prosecution proceedings against those found guilty by CBI and suitable departmental action should be taken against the other officers also immediately.

#### Reply of the Government

The report of CBI in this case was received by STC in June, 1992 requesting for sanction of prosecution against STC officials involved in this case. As the competent authority is required by law to satisfy itself that the offence has been committed by the officials named before according sanction for the prosecution, STC consulted its legal division. After examining the CBI report in consultation with its Legal Division, STC opined that there was no substance in the allegation and conveyed its views to CBI duly informing CVC. In February, '93 CBI advised STC to refer the case to the Ministry of Law for further advice as the decision in the case was taken by CBI in consultation with that Ministry. STC sent a reply to CBI in May, 1993 *inter-alia* suggesting therein that the case alongwith all relevant documents/evidence could be discussed, if CBI was not satisfied with STC's view point. It was also mentioned by STC therein that the Ministry of Law would not entertain any direct reference from it. Subsequently, CBI has taken up the matter with CVC in August, 1993

requesting them to communicate their clear advice to them in the matter which is still awaited.

[Ministry of Commerce O.M. No. 14/5/92-FT(ST) dated 29.10.93]

**Comments of the Committee**

(Please see paragraph No. 16 of Chapter I of the Report)

NEW DELHI;  
March, 1994

*Phalguna 10, 1915 (Saka)*

VILAS MUTTEMWAR,  
*Chairman,*  
*Committee on Public Undertakings.*

## APPENDIX I

*Minutes of the 22nd sitting of Committee on Public Undertakings held on  
10th February, 1994*

The Committee sat from 11.15 hrs. to 13.30 hrs.

### PRESENT

Shri V. Narayanasamy — *In the Chair*

### MEMBERS

2. Shri Basudeb Acharia
3. Shri Ramesh Chennithala
4. Shri Ram Sunder Dass
5. Smt. Saroj Dubey
6. Prof. M. Kamson
7. Dr. C. Silvera
8. Kumari Pushpa Devi Singh
9. Shri Pius Tirkey
10. Shri M.A. Baby
11. Shri Santosh Kumar Sahu

### SECRETARIAT

1. Smt. P.K. Sandhu — *Deputy Secretary*
2. Shri P.K. Grover — *Under Secretary*

### \*OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA

1. Shri C.K. Joseph, Dy. Comptroller & Auditor General  
(Commercial)-cum-Chairman, Audit Board, New Delhi.
2. Shri Shailendra Pandey, Principal Director of Commercial Audit &  
Member Audit Board-II, New Delhi.

In the absence of Chairman, the Committee chose Shri V. Narayanasamy to act as Chairman for the sitting Under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

### *1. Consideration and Adoption of Draft Action Taken Report*

2. The Committee considered the Draft Report on the Action Taken by Government on the recommendations contained in the 23rd Report of

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\* Officers of C&AG of India joined during Selection of Subjects and evidence of GAIL.



## APPENDIX II

(Vide Para 3 of the Introduction)

*Analysis of the Action Taken by Government on the recommendations contained in the 23rd Report of the Committee on Public Undertakings (Tenth Lok Sabha) on State Trading Corporation of India Ltd. — Import of Newsprint*

I. Total number of recommendations	13
II. Recommendations that have been accepted by the Government ( <i>Vide</i> recommendations at Sl. Nos. 2-3, 4-5, 6, 7, and 8)	8
Percentage to total	61.53%
III. Recommendations which the Committee do not desire to pursue in view of the Government's replies ( <i>Vide</i> recommendations at Sl. No. 9)	1
Percentage to total	7.70%
IV. Recommendations in respect of which replies of Government have not been accepted by the Committee ( <i>Vide</i> recommendations at Sl. Nos. 10, 11-12)	3
Percentage to total	23.07%
V. Recommendations in respect of which final replies of Government are still awaited ( <i>Vide</i> recommendations at Sl. No. 13)	1
Percentage to total	7.70%