

**TWO HUNDRED AND TWENTY-FIRST
REPORT
PUBLIC ACCOUNTS COMMITTEE
(1984-85)**

(SEVENTH LOK SABHA)

**PURCHASE OF SECOND-HAND TRANSPORT
AIRCRAFT FROM A PRIVATE FIRM**

MINISTRY OF DEFFNCE

[Action taken on 147th Report (Seventh Lok Sabha)]



Presented in Lok Sabha on

Laid in Rajya Sabha on

**LOK SABHA SECRETARIAT
NEW DELHI**

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CORRIGENDA TO 221ST REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE (7TH LOK SABHA)

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PART II

**Minutes of the sitting of the Public 25
Accounts Committee held on 7.7.1984 (FN)**

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PUBLIC ACCOUNTS COMMITTEE

(1984-85)

Shri Sunil Maitra—Chairman

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1. Shri T.R. Krishnamachari—*Joint Secretary*.
2. Shri H.S. Kohli—*Chief Financial Committee Officer*.
3. Shri K.K. Sharma—*Senior Financial Committee Officer*.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 221st Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 147th Report (Seventh Lok Sabha) relating to Purchase of second-hand transport aircraft from a private firm.

2. In their 147th Report, the Committee had dealt with the infructuous expenditure to the tune of Rs. 11.56 lakhs (in foreign exchange) incurred on the overstay of Air Force crew of 21 sent on 25 January, 1978, for ferrying three second hand carebou aircraft procured from abroad. In this Report the Committee have observed that the officials handling this case had not only failed to act in the best interest of the country but also failed to show the requisite business and legal acumen expected of them. The Committee are more than ever convinced that it was wrong on the part of the Government of India to have sent a large contingent of crew before ensuring that all the necessary formalities for ferrying of the aircraft had been fulfilled and the aircraft were ready for the purpose.

3. The Committee have also observed that the manner in which the seller's agent was able to stall the ferrying of these aircraft to India for a long period has demonstrated the risks involved in entering into contracts for purchase of defence equipment from private parties and agents rather than at Government to Government level. The Committee have hoped that necessary lessons would be drawn from this case.

4. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 7 July, 1984. Minutes of the sitting form Part II of the Report.

5. For facility of reference and convenience, the recommendations and conclusions of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix to the Report.

6. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Office of the Comptroller & Auditor General of India.

NEW DELHI:

16 July, 1984

25, Asadha, 1906 (S)

SUNIL MAITRA
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the Committee's recommendations and observations contained in their 147th Report (Seventh Lok Sabha) on Paragraph 7 of the Report of Comptroller and Auditor General of India for the year 1980-81, Union Government (Defence Services) on Purchase of second-hand transport aircraft from a private firm.

1.2 The 147th Report which was presented to Lok Sabha on 28 April, 1983 contained 13 recommendations. Action Taken Notes have been received in respect of all the recommendations/observations and these have been broadly categorised as follows :

(i) Recommendations and observations which have been accepted by Government :

Sl. Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12 and 13.

(ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government :

—Nil—

(iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration;
Serial No. 11.

(iv) Recommendations and observations in respect of which Government have furnished interim replies :

—Nil—

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

*Infructuous expenditure incurred on ferrying the aircraft
(Serial No. 11 Paragraph 1.90)*

1.4 Commenting upon the infructuous expenditure to the tune of Rs. 11.56 lakhs (in foreign exchange) incurred on the overstay of Air Force crew

sent abroad for ferrying three of the four second-hand caribou aircraft procured from abroad, the Committee had in Paragraph 1.90 of their 147th Report observed as follows :

"Infructuous expenditure to the tune of Rs. 11.56 lakhs (in foreign exchange) was incurred on the over stay of Air Force crew of 21 sent on 25 Jan, 78, for ferrying the aircraft. The crew remained in Switzerland for varying periods upto 1st January, 1979, pending the release of the aircraft. The Committee feel that much of the expenditure would have been avoided, had the team for ferrying of the aircraft been sent, on ensuring that all necessary formalities for ferrying for the aircraft are fulfilled and the aircraft were ready for the purpose. 14 Officers belonging to the party stayed from 25.1.1978 to 6/8.4.1978, 5 officers from 25.1.1978 to 14.6.1978 and the remaining 2 officers of the crew continued to stay upto January 1979. The Committee would like to know the justification for sending such a large contingent and why the officers who were not needed did not return immediately when it became clear that there was no possibility of ferrying of the aircraft in the near future".

1.5 In their action taken note dated 5th March, 1984, the Ministry of Defence stated as follows :

"A contract was concluded on 21 Jan 1977 with firm 'A' for supply of four second-hand Caribou aircraft in fully refurbished condition. The 1st aircraft was collected from Basel on 29 Aug. 1977. Certain discrepancies were noticed on this aircraft and the firm was informed that the remaining three aircraft would not be collected till these were brought upto the desired standard. After protracted correspondence and discussions, the seller agreed to modify the remaining three aircraft and to supply mod kits for the 1st aircraft within 250 days of signing of the agreement. A Supplementary agreement was concluded on 17 Jan 1978, according to which the remaining three aircraft were to be collected by 31 Jan 78. A total of 21 men were sent to Basel on 25 Jan 1978 for acceptance, transit inspection and ferry of these three aircraft. The normal crew composition for one aircraft for a distance ferry is 2 pilots, 1 navigator and 5 ground crew. Therefore, to ferry out 3 aircraft the total requirement of air and ground crew was 24. However, since the three aircraft were to be ferried out together this number was reduced to 21. These crew members were sent to Switzerland by one of our courier flights bound for U.K. On arrival, the crew commenced acceptance inspection of the aircraft and the demonstration flight was undertaken on 27 Jan 78. After the demonstration flight test by the seller the aircraft were accepted on 27 Jan 1978 by our crew. Due to errors in the acceptance certificate Swiss bank did not accept this acceptance certificate till authorised correction were made on 09 Feb 1978. The bank notified the agent

of the seller that the money would be transferred to his account by 14 Feb 1978. Based on this assurance by the bank, the seller's agent sent a telex to the Indian representatives at Basel that the air test by the IAF crew could be carried out, but the aircraft was not to leave for India before clearance from the seller. This was interpreted to be that the seller wanted the money to be transferred to his account before allowing the aircraft to be ferried to India. 11th and 12th February were holidays. The repair agency had half holidays on 13th, 14th and 15th and consequently the aircraft were prepared for air test by the evening of 15th February. However, for nearly a week thereafter there was heavy snow and no flight was possible. The aircraft were finally prepared on 22nd and 23rd Feb for ferry. Meanwhile, the seller's agent informed the leader of the Indian ferry crew that departure would not be permitted without clearance from the seller. He also mentioned that he had made a claim on the Government of India and departure of the aircraft would have to be delayed till settlement.

2. Meanwhile, our lawyer sent to Basel to resolve the matter stated that the seller's agent had approached the French court for the arrest of the aircraft until the money claimed by them by the French court. Efforts were then made to get the aircraft released from the repair agency, but it was learnt that the repair agency had not been paid by the seller for the overhaul work done on these aircraft. We, therefore, explained to the overhaul agency that the aircraft had already been paid for and thus had become the property of the Government of India and that they had no right to held these aircraft. The repair agency thereafter, went to the court on 16 Mar 78 that approximately one million Swiss Francs were due to them from the seller and until payment of that amount was made the aircraft should not be removed. On 22 Mar 78 our case was presented before the Basel court to claim ownership of these aircraft and an order for the release of these aircraft by the repair agency was requested. Since the repair agency's claim of one million Swiss Francs was against the seller and not against the Government of India and the aircraft were still registered at Oklahoma in the name of the seller, the acquisition of these aircraft by us could not be conclusively proved. Based on the evidence available, the court did not grant an injunction order for the release of the aircraft, unless a sum of one million Swiss Francs was deposited in the court. Whether this money was to be paid to the repair agency or not was to be decided in subsequent hearings.

3. In the light of the complication in collecting the Caribou aircraft from Basel, various alternatives including the withdrawal of all officers and ground crew was considered in Apr 78. The question of depositing one million Swiss Francs with the Basel court against the repair agency's claim was also considered. In the absence of valid

proof of transfer of aircraft to the Government of India, it was decided to obtain a certificate of transfer of these aircraft from the FAA before taking a decision on whether to make the deposit or to resort to some other action. The FAA authorities were not willing to accept de-registration of the aircraft till further notice. Anticipating a delay in release of the aircraft it was decided to withdraw the majority of crew members leaving behind only one set to look after day-to-day maintenance and to keep the aircraft flyworthy. The majority of crew members returned to India in April 78.

4. Meanwhile, the original documents were obtained from the State Bank of India and were sent to FAA, Washington on 28 Mar. 78. AA received these documents and mentioned on 4 April 78, that the matter had been discussed with FAA authorities in Oklahoma city. Since the letter requesting de-registration of the remaining three aircraft forwarded by us indicated only that the aircraft were being sold to the Government of India, the FAA authorities were of the view that they had to take cognisance of the telegram issued by the seller, asking them to withhold de-registration. AA Washington thereafter visited FAA Headquarters at Oklahoma and discussed the issue with the Chief of the FAA and their legal experts. In view of the original bill of sale and other documents shown to the FAA, they agreed to issue a letter of termination of registration in respect of these three aircraft by reason of transfer of ownership to Government of India. The termination letter dated 06 April 78 was then forwarded to DGCA, India. This information was given by AA Washington on 08 April 78, who informed us that the photostat copies of these documents would be despatched by the diplomatic bag to 10 April 78. The same day our Ambassador in Berne was advised of the latest position regarding de-registration and the Ambassador decided to retain the remaining crew since the de-registration might be sufficient evidence for the French court to revise the original decision of 16 March 78.

5. On 20 April 78 our Ambassador in Berne was approached to ascertain whether he had received the documents relating to de-registration which were despatched on 10 April 78. The Ambassador confirmed that he had received the documents and the court hearing in France had been arranged on 03 May 78.

6. Hearing of our case was postponed from 03 May 78 to 17 May 78 to enable the representatives of the seller and the repair agency to study our plaint and support documents which they are entitled to under French law. Our appeal before the French court for removal of its order, detaining three Caribou aircraft at Basel airport was heard on 17 May 78. After hearing arguments from our lawyer and the representatives of the seller and the repair agency, the Judge announced that he would pronounce judgement on 01 June

78. On 01 June 78 the French court decided that it was not competent to decide the ownership of the aircraft and the parties involved were advised to lodge an appeal before the competent court for a decision in the matter and that the restraint order could be cancelled provided the Government of India deposited an amount of about one million francs with the designated bank in Switzerland. It was, therefore, apparent that an appeal would require to be preferred in both the High Courts of France and India and it would be a long drawn battle before the order for the release of the aircraft could be obtained.

7. The question of the recall of the remaining aircrew was again considered in early June 78 and it was decided that one pilot and one flight engineer could stay back and the other crew members returned to India on 14 June 78. The two crew members left back at Basel were retained primarily for the absolute minimum maintenance and care of the aircraft since the aircraft were the property of the Government of India for which 95% of the contract value had already been paid to the seller. These two crew members returned to India in February 79 when the last aircraft was ferried out of Basel.

8. From the foregoing facts, it can be seen that the complement of crew sent for acceptance, transit inspection and ferry of aircraft was the bare minimum. Retention of the majority crew at Basel till April 78 was necessary since it was assessed that early vacation of the Court Order would be obtained since the plaint was against the seller and not against the Government of India. However, when it became clear that the case would involve protracted litigation in court, the other crew members were promptly withdrawn. Retention of 2 crew members thereafter was essential for the minimum maintenance of the aircraft.

9. This has been seen by Audit.”

1.6 Commenting upon an infructuous expenditure to the tune of Rs. 11.56 lakhs (in foreign exchange) incurred on the overstay of Air Force crew of 21 sent on 25 January, 1978, for ferrying three second hand caribou aircraft procured from abroad, the Committee had in their earlier Report observed that much of this expenditure would have been avoided, had the team for ferrying of the aircraft been sent on ensuring that all necessary formalities for ferrying the aircraft were fulfilled and the aircraft were ready for the purpose. The Committee had also desired to know why the officers who were not needed did not return immediately when it became clear that there was no possibility of ferrying of the aircraft in the near future. Out of the crew of 21 sent on 25 January, 1978, 14 Officers stayed in Switzerland from 25.1.1978 to 6/8.4.1978, 5 officers from 25.1.1978 to 14.6.1978 and the remaining two officers of the crew continued to stay upto January 1979. In their action taken note, the Ministry of Defence have stated that according to the Supplementary agreement concluded on 17 January 1978, the three aircraft

were to be collected by 31 January, 1978. A total of 21 men were sent to Basel on 25 January 1978 for acceptance, transit inspection and ferry of these three aircraft against the total requirement of air and ground crew of 24. However, due to errors in the acceptance certificate, the Swiss Bank in the first instance did not accept the certificate till authorised corrections were made on 9.2.1978. Thereafter, the seller's agents informed the leader of the Indian ferry crew that departure of aircraft would not be permitted without clearance from seller. Efforts were then made to get the aircraft released from the repair agency. But the repair agency which had not been paid for the overhaul work by the seller did not agree. The argument advanced by the Indian side that the aircraft had already been paid for and had become the property of the Government of India was not accepted by the repair agency which went to court on 16.3.1978 with a prayer that until approximately one million Swiss Francs which were due to them from the seller were paid, the aircraft should not be allowed to be removed. On 22.3.1978, the Indian case was presented to the Basel Court. But as the aircraft were still registered at Oklahoma, the acquisition of the aircraft by the Government of India could not be conclusively proved. It was much later, after all the procedural formalities had been fulfilled and the legal complications resolved, that the aircraft were allowed to be ferried out of Basel. The last aircraft was ferried in February, 1979. The whole case shows how badly the Government of India had all along handled this case. It is not clear why even after having paid practically the entire amount the Government of India did not get the aircraft registered in their name. The Committee feel that the officials handling this case had not only failed to Act in the best interest of the country but also failed to show the requisite business and legal acumen expected of them. The Committee are more than ever convinced that it was wrong on the part of the Government of India to have sent a large contingent of crew before ensuring that all the necessary formalities for ferrying of the aircraft were ready for the purpose.

1.7 The manner in which the sellers agent was able to stall the ferrying of these aircraft to India for a long period has demonstrated the risks involved in entering into contracts for purchase of defence equipment from private parties and agents rather than at Government to Government level. The Committee hope that necessary lessons would be drawn from this case.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

Having regard to the depleting strength of 'Caribou' transport aircraft, inducted in Indian Air Force w.e.f. September/October 1963 and the delay anticipated in the induction of a new version, the Apex Planning Group II had inter alia recommended in 1975 for the "purchase of 4 to 6 additional caribous to augment the Transport capacity of the IAF till such time as the Buffalow aircraft or its equivalent is produced in India." These aircraft being to longer in production, purchase had to be made of second hand aircraft. The Ministry of Defence accordingly issued in September 1975 letters of interest to 4 foreign 'A', 'B', 'C' and 'D', from whom offers had been received earlier for the purchase of 4 to 6 Second-hand aircraft.

[Sl. No. 1 (Para 1.80) of Appendix to 147th Report of the Public Accounts Committee (7th Lok Sabha)]

Action Taken

Statement of fact. No specific action is required. This has been seen by Audit.

[Ministry of Defence u. o. No. 57 (2)/81/D (Air. I) dated 19.5.84]

Recommendation

On scrutiny of the various offers, two offers of Firms 'A' and 'B' remained in the field for final analysis. Whereas firm 'A' offered to sell the 4 aircraft belonging to its, the aircraft offered by firm 'B' in July 1976 belonged to Governments of countries 'Y' and 'Z' (2 each). Consequent on the survey of the aircraft offered by country 'Y' by the representative of HAL it was found that those two aircraft were fly-worthy. Further inspite of the fact that country 'Z' was agreeable to sell their aircraft either direct or through intermediary and the "aircraft were for immediate sale and in good condition with new engines and spare parts", the Guidance Committee in its meeting held on 9.9.1976 decided that "though the offers of Government of countries 'Y' and 'Z' were lower than those received from firm 'A' there were certain advantages if the aircraft were procured from intermediaries since it would be their responsibility to carry out necessary checks and deliver them to us in fly-worthy condition."

[Sl. No. 2 (Para 1.81) of Appendix 147th Report of the Public Accounts Committee (7th Lok Sabha)]

Action Taken

Statement of fact. No specific action is required. This has been seen by Audit.

[Ministry of Defence u.o. No. 57(2)/81/D (Air. I) dated 19.5.84.]

Recommendation

Firm 'A' which had earlier *suo moto* revised and brought down its original offer of September, 1975 twice in July 1976 and 19 November, 1976 agreed as a result of further negotiations conducted in pursuance of Guidance Committee's decision of 10 November, 1976 to further Bring down their offer on 7.12.1976 so as to make it acceptable. According to the Audit, the final comparative costs of the two offers of firms 'A' and 'B' on a like-to like basis were arrived at as Rs. 191.70 lakhs (US \$ 2.13 million) and Rs. 199.30 lakhs (US 1.89 million pluse Rs. 28.84 lakhs). Incidentally, the cost of sapares (with an invoice value of US \$ 1,200,00) offered free of cost by firm 'B' was excluded while computing the comparative costs. Whereas, the aircraft offered by firm 'A' were to be delivered at station 'V' after overhaul, the overhauling work having been already entrusted since 1974 to a firm there the aircraft offered by firm 'B' on "as is where is" basis would have to be got overhauled in India by HAL. A contract was finally concluded in February 1977 with firm 'A' represented by another firm 'E' in the person of Mr. 'M' for the supply of 4 aircraft and 2 spare engines at US \$ 1.950 million inspite of the fact that offer of firm 'B' was more attractive and involved considerable saving of foreign exchange.

[S. No. 3 (Para 1.82) of Appendix to 147th Report of the PAC (7th Lok Sabha)]

Action Taken

No action is necessary.

This has been seen by Audit.

[Ministry of Defence u.o. No. 57(2)/81/D (Air. I) dated 19.5.84.]

Recommendation

The Committee are surprised to note that contract for the supply of 4 second-hand caribou aircrafts was concluded with firm 'A' inspite of several obvious advantages arising out of the offer of firm 'B' and apparent disadvantages of the deal with firm 'A'. The main advantage of 'B's offer was that the two aircraft belonging to country 'Y' were flyworthy and the other two belonging to country 'Z' according to our own Ambassador's statement were "for immediate sale and stated to be in good condition with new engines and appropriate spare parts." On the other hand when the aircraft offered by Firm 'A' were inspected in December, 1975, by representatives of the Air Force and HAL, it was found that engines, avionic equipment and cockpit instruments had been

removed and external corrosion on these aircraft was noticed. Further as the aircraft offered by the firm 'B' were to be got overhauled in India, considerable saving of foreign exchange could have been effected. Yet another advantage of firm 'B's offer was that they had offered free of cost spares (with an invoice value of US \$ 1,200,000), which were unfortunately excluded in computing the comparative costs. As confirmed by the Ministry of Defence 24 items of these spares at a cost of \$ 19,435.35 had to be subsequently procured to meet the IAF requirements after the purchase of the aircraft. As such, it was not correct to treat all of these spares as non-asset. An important draw-back of the offer from firm 'A' was that the aircraft were registered with a third party viz. Mr. 'M' of another firm 'E', which was bound to create complications and in fact there were difficulties as subsequent events proved.

[Sl. No. 4 (Para 1.83) of Appendix to 147th Report of Public Accounts Committee (7th Lok Sabha)]

Action Taken

Noted for future guidance.

This has been seen by Audit.

[Ministry of Defence u.o. No. 57(2)81/D (Air. I) dated 19.5.14.]

Recommendation

The important specifications made in the letter of interest were that the aircraft should conform as close as possible to the standard of pre-patation of military version and should be arranged to be deliverd in India after satisfactory acceptance flight. The Committee are surprised to note that the term "standard preparation of Military version" was left unspecified both in the letter of interest and the contract concluded thereafter. Consequently, a number of short comings and deviations from the standard of preparation of military version were revealed in the 4 second hand aircraft, procured by the authorities. As a result of this the aircraft brought into the country in September, 1977 was found to be suffering from a number of shortcomings and a Supplementary Agreement had to be concluded with the supplier to fit the aircraft with the required components or in lieu to supply the modkits at a cost of Can. \$ 23,346.22. The Committee are concerned to note that the supplier has so far failed to fit the components. Viewed in the context of the sad outcome of this omission, the Committee cannot accept the contention of the Ministry that 'unlike in the case of new weapon system ordered for manufacture and supply, the standard of preparation of aircraft in service is generally known'. Drawing lessons from the sad experience in this case the Ministry should ensure that the requisite details are incorporated in the letter of interest as well as contract so as to obviate any possibility of vagueness resulting in subsequent additional expenditure and operational difficulties.

[Sl. No. 5 (Para 1.84) of Appendix to 147th Report of the Public Accounts Committee (7th Lok Sabha)]

Action Taken

The observation/recommendation made by the Committee have been brought to the notice of all concerned for future guidance/compliance. A copy of Ministry of Defence I.D. No. 11 (9)/83/D (Bud) dated 20.10.83, is enclosed.

2. This has been seen by Audit.

[Ministry of Defence I.D. No 57(2)/81/D (AIR-I) dated 5th March 1984.]

Recommendation

The Committee are surprised to note that while placing orders for these aircraft with firm 'A' the authorities deviated from the stipulation made in their initial letter of interest to the effect that the aircraft and engines "should be arranged to be delivered in India for satisfactory acceptance flights and checks" and agreed to accept the delivery of the aircraft at Basel,

[Sl. No. 6 (Para 1.85) of Appendix to 147th Report of Public Accounts Committee (7th Lok Sabha)]

Action Taken

As a practice Ministry of Defence prescribes the terms and place of delivery in the letter of interest. In the present case during negotiation it was considered advantageous to accept the delivery of the aircraft at Basel where it was being overhauled by an overhaul agency authorised by the manufacturers of the aircraft. However, the observation of the Committee is noted for future guidance. This has been seen by Audit.

[Ministry of Defence u. o. No. 57 (2)/81/D(Air. I) dated 19.5.84)]

Recommendation

The main justification given by the Ministry for concluding the contract with firm 'A' despite the various snags in the offer was that the lead time for making available the aircraft for development was 3 months in this case against the 18 months in the case of firm 'B' the aircraft being urgently required for induction. The Committee are deeply concerned to note that even this purpose was not achieved as is evident from the fact that as many as 3 aircraft were received in the country in 1979 only involving further additional unforeseen and infructuous expenditure on the deal.

[Sl. No. 7 (Para 1.86) of Appendix to 147th Report of the Public Accounts Committee (7th Lok Sabha)]

Action Taken

No action is necessary.

This has been seen by Audit.

[Ministry of Defence u.o. No. 57 (2)/81/D (Air.I) dated 19.5.84.]

Recommendation

The engine of the first aircraft while being ferried from Station 'V' to India on 29 Aug, 1977 failed at Station 'W' and the aircraft had to be feathered. A spare engine of the Air Force had to be flown from India and the aircraft after repair was ferried to India on 25 Sept, 1977 involving further additional unforeseen and infructuous expenditure. This clearly indicates that the aircraft was not properly checked by the Officers who were sent to Station 'V' for the purpose particularly when it has been admitted by the Ministry of Defence that this was a material failure. The Committee recommended that this needs to be gone into indepth and responsibility fixed for the lapse.

[Sl. No. 8 (Para 1.87) of Appendix to 147th Report of Public Accounts Committee (Seventh Lok Sabha)

Action Taken

As recommended by the Committee an inquiry was instituted to determine the circumstances under which VR 2000-7M2 Engine Sl. No. 103168 of one aircraft (Caribou M-2167), while being ferried from Basel (Switzerland) to India on 29 Aug, 1977, failed at Basra (Iraq). This (Caribou aircraft M-2167) was the first aircraft offered by the firm for acceptance and ferry to India. At Basel the performance of the aircraft was checked by a team of officers and technical tradesman and was found to be satisfactory, both, on the ground and in the air. Subsequently, acceptance checks were carried out by the Indian Air Force ground Crew and aircrew and the aircraft (Caribou Aircraft M-2167) was found fit for ferry from Basel to India.

2. After acceptance ferry of the aircraft to India commenced on 29 Aug 1977. Enroute, the aircraft landed at Basra (Iraq) on 03 Sep 1977 for refuelling. After refuelling, the aircraft took off for Dubai on 03 Sep 1977. The aircraft climbed to a cruising altitude of 900 ft and while power was being reduced for levelling out, the port engine malfunctioned. The port engine had to be then shut down and the aircraft was safely landed back at Basra. Ground checks showed metal particles in the oil filter and the engine was declared unserviceable. After replacing the unserviceable engine, the ferry to India was resumed on 21 Sep 77.

3. The failed port engine was subsequently brought to Palam, from where it was sent to Hants and Sussex Aviation Limited (UK) for defect investigation. Defect investigation showed that the link rod had broken due to material failure. The Court inquiring into the occurrence has also opined that the cause of mal-function was material failure. Such material failure could not have been foreseen by the ground crew or aircrew during the inspection/collection of the aircraft.

4. The failed (Port) engine had been overhauled by M/S. Hants and Sussex of UK in September 1975 and the overhaul certificate was duly signed by the

firm's representative. The performance of both engines during the ferry flights from Basel to Basra and after take off from Basra till the aircraft climbed to 9000 ft. was normal.

5. The ferry crew cannot be held responsible for such failure of an internal component of an engine.

6. This has been seen by Audit.

[Ministry of Defence I.D. No. 57 (2)/81/D (AIR-I) dated 5th March 1984.]

Recommendation

The ferrying of the remaining three aircraft were delayed due to a number of reasons. The first reason was that on 14 February, 1978, firm 'A' replaced their agent Mr. 'M' by another person Mr. 'P' Surprisingly, the aircraft had not been deregistered from the name of Mr. 'M' and registered in the name of the Government of India. Thereafter on 28 February, 1978, Mr. 'P' the new agent of firm 'A' claimed payment of US \$ 99,915.41 (later on March 1978 an additional sum of US \$ 22,114) towards expenditure incurred on "additional modifications incorporated, other incidental charges and hangarage and detained the aircraft pending payment of these claims." Thereafter in March 1978, the agency which overhauled the aircraft obtained a court order, restraining the release of the aircraft until the payment of Swiss Francs 1 million due to it from Mr. 'M' for the overhaul work done in these aircraft. The aircraft were released on 13 December, 1978.

[Sl. No. 9 (Para 1.88) of Appendix to 147th Report of Public Accounts Committee (7th Lok Sabha)]

Action Taken

Statement of fact. No. specific action is required.

This has been seen by Audit.

[Ministry of Defence u.o. No. 57 (2)/81/D(Air.I) dated 19.5.84.]

Recommendation

The Committee are concerned to note that the authorities had to incur unforeseen and additional expenditure to the tune of Swiss Francs 55 000 (Rs. 2.96 lakhs) for rechecking and rehauling of the 3 aircraft, as they had been parked for over a year with no maintenance and as such could not be ferried before they were made flight-worthy. The Committee are convinced that the authorities concerned in the Ministry of Defence are themselves to be blamed and they miserably failed to foresee these difficulties and to take adequate precautions. The Committee need hardly emphasize that the various aspects of the

whole deal should be gone into locating the various failures with a view to learning appropriate lessons from the lapses for the future.

[Sl. No. 10 (Para 1.89) of Appendix to 147th Report of the Public Accounts Committee (Seventh Lok Sabha).]

Action Taken

In future, it will be ensured that at the time of finalisation of contract the relevant details viz. nature of corporate ownership of the equipment competence of the negotiator and his absolute authority for signing the contract are carefully examined to establish that the contract is being signed by a duly authorised person on behalf of the Company who own the subject equipment.

2. This has been seen by Audit.

[Ministry of Defence I. D. No. 57 (2)/81/D (Air-I) dated 5th March 1984.]

Recommendation

The Committee are not convinced by the argument adduced by the Ministry that the delay was not allowed to affect the operational efficiency as "allotted operational tasks were fulfilled by temporarily supplementing the caribou by other aircraft/helicopter." From This, the Committee can not but concluded that the decision of the Ministry was wholly unjustified.

[Sl. No. 12 Para 1.91 of Appendix to 147th Report of Public Accounts Committee (7th Lok Sabha)]

Action Taken

Noted for future guidance.

This has been seen by Audit.

[Ministry of Defence U.O.No. 57(2)/81(Air.I) dated 19.5.84.]

Recommendation

The Committee note that the Caribou aircraft were inducted in the Indian Air Force in 1962 and the expected life of these aircraft was about 15 years depending upon the actual utilisation of these aircraft. The Ministry of Defence were aware that this type of aircraft would go out of manufacture in 1966-67. Further the proposal to purchase aircraft to replace Caribou transport aircraft was initiated as late as in 1972, and even thereafter the Ministry took as much as 9 years to decide the aircraft which is to replace Caribou and a decision in this regard was taken only in 1981 and the new aircraft are expected to be inducted this year. This typifis the delay in decision making on a vital matter affecting transport capacity of our defence forces. The Committee expect better advance planning in future.

[Sl. No. 13 (Para. 1.92) of Appendix 147th Report of Public Accounts Committee (7th Lok Sabha)]

Action Taken

The observation/recommendations made by the Committee have been brought to the notice of all concerned for future guidance/compliance. A copy of Ministry of Defence I.D. No. 11/9/83/D (Budget) dated 20.10.83, is enclosed (Annexure).

2. This has been seen by Audit.

[Ministry of Defence I.D.No. 57(2)/81/D (Air.I dated 5th March 1984.)

ANNEXURE**MOST IMMEDIATE
P.A.C. MATTER****MINISTRY OF DEFENCE
D (BUDGET)**

Subject :-147th Report of Public Accounts Committee (7th Lok Sabha) 1982-83 regarding Purchase of second-hand transport aircraft from a private firm.

The recommendations/observations made by the P.A.C. in paras 1.84 and 1.92 of their 147th Report of Public Accounts Committee regarding purchase of a second-hand transport aircraft from a Private firm are enclosed.

2. The Committee *vide* para 1.84 of the above mentioned report has recommended that the Ministry should ensure requisite details being incorporated in the letter of interest as well as contract so as to obviate any possibility of vagueness resulting in subsequent additional expenditure and operational difficulties.

Further in para 1.92 of the said report the committee has noted that Caribou aircraft, whose expected life was about 15 years, were inducted in the Air Force in 1962 but the proposal to replace Caribou transport aircraft was initiated as late as in 1972 and even thereafter the Ministry took as much as 9 years to decide the aircraft which is to replace Caribou aircraft. The Committee expect better advance planning in future as delay in decision making on such a vital matter affects the transport capacity of our defence forces.

3. The above mentioned observations/recommendations made by the P.A.C. may please be noted for future guidance/compliance.

SD/-
(ASSIM CHATTERJI)
JOINT SECRETARY (P&C)

All Joint-Secretaries in the Ministry of Defence

Ministry of Defence I.D. No. 11(9)/83/D (Budget), dated 20th October, 1983.

Copy to:-

All Directors/Deputy Secretaries/Branch Officers.

Extract from the 147th Report of the Public Accounts Committee (7th Lok Sabha), 1982-83, regarding PURCHASE OF SECOND HAND TRANSPORT AIRCRAFT FROM A PRIVATE FIRM.

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Para 1.84 The important specification made in the letter of interest were that the aircraft should conform as close as possible to the standard of preparation of military version and should be arranged to be delivered in India after satisfactory acceptance flight. The Committee are surprised to note that the term "standard preparation of military Version" was left unspecified both in the letter of interest and the contract concluded thereafter. Consequently, a number of shortcomings and deviations from the standard of preparation of military version were revealed in the 4 secondhand aircraft, procured by the authorities. As a result of this the aircraft, brought into the country in September, 1977 was found to be suffering from a number of shortcomings and a Supplementary Agreement had to be concluded with the supplier to fit the aircraft with the required components or in lieu to supply the modkits at a cost of Can. \$ 23,346.22. The Committee are concerned to note that the supplier has so far failed to fit the components. Viewed in the context of the sad outcome of this omission, the Committee cannot accept the contention of the Ministry that "unlike in the case of new weapon system ordered for manufacture and supply, the standard of preparation of aircraft in service is generally known." Drawing lessons from the sad experience in this case the Ministry should ensure that the requisite details are incorporated in the letter of interest as well as contract so as to obviate any possibility of vagueness resulting in subsequent additional expenditure and operational difficulties.

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Para 1.92 The Committee note that the caribou aircraft were inducted in the Indian Air Force in 1962 and the expected life of these aircraft was about 15 years depending upon the actual utilisation of these aircraft. The Ministry of Defence were aware that this type of aircraft would go out of manufacture in 1966-67. Further the proposal

to purchase aircraft to replace Caribou transport aircraft was initiated as late as in 1972, and even thereafter the Ministry took as much as 9 years to decide the aircraft which is to replace Caribou and a decision in this regard was taken only in 1981 and the new aircraft are expected to be inducted this year. This typifies the delay in decision making on a vital matter affecting transport capacity of our defence forces. The Committee expect better advance planning in future.

CHAPTER III

RECOMMENDATIONS AND OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

—NIL—

CHAPTER IV

RECOMMENDATIONS AND OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

Infructuous expenditure to the time of Rs. 11.56 lakhs (in foreign exchange) was incurred on the over stay of Air Force crew of 21 sent on 25 Jan. 78, for ferrying the aircraft. The crew remained in Switzerland for varying period upto 1st January, 1979, pending the release of the aircraft. The Committee feel that much of the expenditure would have been avoided, had the team for ferrying of the aircraft been sent, on ensuring that all necessary formalities for ferrying for the aircraft are fulfilled and the aircraft were ready for the purpose. 14 officers belonging to the party stayed from 25.1.1978 to 6/8.4.1978, 5 officers from 25.1.1978 to 14.6.1978 and the remaining 2 officers of the crew continued to stay upto January 1979. The Committee would like to know the justification for sending such a large contingent and why the officers who were not needed did not return immediately when it became clear that there was no possibility of ferrying of the aircraft in the near future.

[Sl. No. 11 (Part 1.90) of Appendix to 147th Report of the Public Accounts Committee (7th Lok Sabha)]

Action Taken

A contract was concluded on 21 Jan. 1977 with firm 'A' for supply of four Second-hand Caribou aircraft in fully furnished condition. The 1st aircraft was collected from Basel on 29 Aug. 1977. Certain discrepancies were noticed on this aircraft and the firm was informed that the remaining three aircraft would not be collected till these were brought upto the desired standard. After protracted correspondence and discussions, the seller agreed to modify the remaining three aircraft and to supply mod kits for the 1st aircraft within 250 days of signing of the agreement. A Supplimentary agreement was concluded on 17 Jan. 1978, according to which the remaining three aircraft were to be collected by 31 Jan. 78. A total of 21 men were sent to Basel on 25 Jan. 1978 for acceptance, transit inspection and ferry of these three aircrafts. The Normal crew composition for one aircraft for a distance ferry is 2 pilots, 1 navigator and 5 ground crew. Therefore, to ferry out 3 aircrafts the total requirement of air and ground

crew was 24. However, since the three aircraft were to be ferried out together this number was reduced to 21. These crew members were sent to Switzerland by one of our courier flights bound for U.K. On arrival, the crew commenced acceptance inspection of the aircraft and the demonstration flight was undertaken on 27 Jan. 78. After the demonstration flight test by the seller the aircraft were accepted on 27 Jan. 1978 by our crew. Due to errors in the acceptance certificate the Swiss bank did not accept this acceptance certificate till authorised correction were made on 9 Feb 1978. The bank notified the agent of the seller that the money would be transferred to his account by 14 Feb 1978. Based on this assurance by the bank, the seller's agent sent a telex to the Indian representatives at Basel that the air test by the IAF crew could be carried out, but aircraft was not to leave for India before clearance from the seller. This was interpreted to be that the seller wanted the money to be transferred to his account before allowing the aircraft to be ferried to India. 11th and 12th February were holidays. The repair agency had half holidays on 13th, 14th and 15th and consequently the aircraft were prepared for air test by the evening of 15th February. However, for early a week there after there was heavy snow and no flight was possible. The aircraft were finally prepared on 22nd and 23rd Feb for ferry. Meanwhile, the seller's agent informed the leader of the Indian ferry crew that departure would not be permitted without clearance from the seller. He also mentioned that he had made a claim on the Government of India and departure of the aircraft would have to be delayed till settlement.

2. Meanwhile, our lawyer sent to Basel to resolve the matter stated that the seller's agent had approached the French court for the arrest of the aircraft until the money claimed by them by the French court. Efforts were then made to get the aircraft released from the repair agency, but it was learnt that the repair agency had not been paid by the seller for the overhaul work done on these aircrafts. We, therefore, explained to the overhaul agency that the aircraft had already been paid for and thus had become the property of the Government of India and that they had not right to hold these aircrafts. The repair agency thereafter, went to the court on 16 Mar. 78 that approximately one million Swiss Francs were due to them from the seller and until payment of that amount was made the aircraft should not be removed. On 22 Mar. 78 our case was presented before the Basel court to claim ownership of these aircrafts and an order for the release of these aircrafts by the repair agency was requested since the repair agency's claim of one million Swiss Francs was against the seller and not against the Government of India and the aircrafts were still registered at Oklahama in the name of the seller, the acquisition of these aircrafts by us could not be conclusively proved. Based on the evidence available, the court did not grant an injunction order for the release of the aircraft, unless a sum of one million Swiss Francs was deposited in the court. Whether this money was to be paid to the repair agency or not was to be decided in subsequent hearings.

3. In the light of the complications in collecting the Caribou aircraft from Basel, various alternatives including the withdrawal of all officers and ground crew was considered in Apr. 78. The question of depositing one million Swiss

Frances with the Basel court against the repair agency's claim was also considered. In the absence of valid proof of transfer of aircraft to the Government of India, it was decided to obtain a certificate transfer of these aircrafts from the FAA before taking a decision on whether to make the deposit or to resort to some other action. The FAA authorities were not willing to accept de-registration of the aircraft till further notice. Anticipating a delay in release of the aircraft it was decided to withdraw the majority of crew members leaving behind only one set to look after day-to-day maintenance and to keep the aircraft flyworthy. The majority of crew members returned to India in April 78.

4. Meanwhile, the original documents were obtained from the State Bank of India and were sent to AA, Washington on 28 Mar 78. AA received these documents and mentioned on 4 Apr. 78, that the matter had been discussed with FAA authorities in Oklahoma city. Since the letter requesting de-registration of the remaining three aircrafts forwarded by us indicated only that the aircrafts were being sold to the Government of India, the FAA authorities were of the view that they had to take cognisance of the telegram issued by the seller, asking them to withhold de-registration. AA Washington thereafter visited FAA Headquarters at Oklahoma and discussed the issue with the Chief of the FAA and their legal experts. In view of the original bill of sale and other documents shown to the FAA, they agreed to issue a letter of termination of registration in respect of these three aircrafts by reason of transfer of ownership to Government of India. The termination letter dated 6 Apr. 78 was then forwarded to DGCA, India. This information was given by AA Washington on 8 Apr. 78, who informed us that the photostate copies of these documents would be despatched by the diplomatic bag on 10 Apr. 78. The same day our Ambassador in Berne was advised of the latest position regarding de-registration and the Ambassador decided to retain the remaining crew since the de-registration might be sufficient evidence for the French court to revise the original decision of 16 Mar. 78.

5. On 20 Apr. 78 our Ambassador in Berne was approached to ascertain whether he had received the documents relating to de-registration, which were despatched on 10 Apr. 78. The Ambassador confirmed that he had received the documents and the court hearing in France had been arranged on 3 May 78.

6. Hearing of our case was postponed from 3 May 78 to 17 May 78 to enable the representatives of the seller and the repair agency to study our plaint and support documents which they are entitled to under French law. Our appeal before the French court for removal of its order, detaining three Caribou aircrafts at Basel airport was heard on 17 May 78. After hearing arguments from our lawyer and the representatives of the seller and the repair agency, the Judge announced that he would pronounce judgement on 1 June 78. On 1 June 78 the French court decided that it was not competent to decide the ownership of the aircraft and the parties involved were advised to lodge an appeal before the competent court for a decision in the matter and that the restraint order could be cancelled provided the Government of India deposited an amount of about one million francs with the designated bank in Switzerland. It was, therefore, apparent that an appeal would require to be preferred in both the High

Courts of France and India and it would be a long drawn battle before the order for the release of the aircraft could be obtained.

7. The question of the recall of the remaining aircrew was again considered in early June 78 and it was decided that one pilot and one flight engineer could stay back and the other crew members returned to India on 14 Jan 78. The two crew members left back at Basel were retained primarily for the absolute minimum maintenance and care of the aircraft since the aircraft were the property of the Government of India for which 95% of the contract value had already been paid to the seller. These two crew members returned to India in Feb 79 when the last aircraft was ferried out of Basel.

8. From the foregoing facts, it can be seen that the complement of crew sent for acceptance, transit inspection and ferry of aircraft was the bare minimum. Retention of the majority crew at Basel till April 78 was necessary since it was assessed that early vacation of the Court Order would be obtained since the plaint was against the seller and not against the Government of India. However, when it became clear that the case would involve protracted litigation in court, the other crew members was promptly with the Retention of 2 crew members thereafter was essential for the minimum maintenance of the aircraft.

9. This has been seen by Audit.

[Ministry of Defence I.D. No. 57(2)/81/D/(Air) dated 5th March 1984.]

CHAPTER V

RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

NIL

NEW DELHI;

16 July, 1984

25 Asadha, 1905 (S)

SUNIL MAITRA

Chairman,

Public Accounts Committee.

APPENDIX

Conclusions and Recommendations

Sl. No.	Para No.	Ministry/Dept Concerned	Conclusion/Recommendation
1	2	3	4
1.	1.6	Defence	<p>Commenting upon an infructuous expenditure to the tune of Rs. 11.56 lakhs (in foreign exchange) incurred on the overstay of Air Force crew of 21 sent on 25 January, 1978, for ferrying three second hand caribou aircraft procured from abroad, the Committee had in their earlier Report observed that much of this expenditure would have been avoided, had the team for ferrying of the aircraft been sent on ensuring that all necessary formalities for ferrying the aircraft were fulfilled and the aircraft were ready for the purpose. The Committee had also desired to know why the officers who were not needed did not return immediately when it became clear that there was no possibility of ferrying of the aircraft in the near future. Out of the crew of 21 sent on 25 January, 1978, 14 Officers stayed in Switzerland from 25.1.1978 to 6/8.4.1978, 5 officers from 25.1.1978 to 14.6.1978 and the remaining two officers of the crew continued to stay upto January 1979. In their action taken note, the Ministry of Defence have stated that according to the Supplementary agreement concluded on 17 January 1978, the three aircraft were to be collected by 31 January, 1978. A total of 21 men were sent to Basel on 25 January 1978 for acceptance, transit inspection and ferry of these three aircraft against the total requirement of air and ground crew of 24. However, due to errors in the acceptance certificate, the Swiss Bank in the first instance did not accept the certificate till authorised corrections were made on 9.2.1978. Thereafter, the seller's agents informed the leader of the Indian ferry crew that departure of aircraft would not be</p>

permitted without clearance from the seller. Efforts were then made to get the aircraft released from the repair agency. But the repair agency which had not been paid for the overhaul work by the seller did not agree. The argument advanced by the Indian side that the aircraft had already been paid for and had become the property of the Government of India was not accepted by the repair agency which went to court on 16.3.1978 with a prayer that until approximately one million Swiss Francs which were due to them from the seller were paid, the aircraft should not be allowed to be removed. On 22.3.1978, the Indian case was presented to the Basel Court. But as the aircraft were still registered at Oklahoma, the acquisition of the aircraft by the Government of India could not be conclusively proved. It was much later, after all the procedural formalities had been fulfilled and the legal complications resolved, that the aircraft were allowed to be ferried out of Basel. The last aircraft was ferried in February, 1979. The whole case shows how badly the Government of India had all along handled this case. It is not clear why even after having paid practically the entire amount the Government of India did not get the aircraft registered in their name. The Committee feel that the officials handling this case had not only failed to act in the best interest of the country but also failed to show the requisite business and legal acumen expected of them. The Committee are more than ever convinced that it was wrong on the part of the Government of India to have sent a large contingent of crew before ensuring that all the necessary formalities for ferrying of the aircraft had been fulfilled and the aircraft were ready for the purpose.

2. 1.7 Defence The manner in which the seller's agent was able to stall the ferrying of these aircraft to India for a long period has demonstrated the risks involved in entering into contracts for purchase of defence equipment from private parties and agents rather than at Government to Government level. The Committee hope that necessary lessons would be drawn from this case.

PART II

MINUTES OF THE SEVENTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 7 JULY, 1984 (FN)

The Committee sat from 1130 hrs. to 1200 hrs.

PRESENT

Shri Bhiku Ram Jain—*In the Chair*

2. Shri Chitta Basu
3. Shrimati Vidyavati Chaturvedi
4. Shri Digambar Singh
5. Shri G.L. Dogra
6. Shri K. Lakkappa
7. Shri Mahavir Prasad
8. Shri Jamilur Rahman
9. Shri Suraj Bhan
10. Shri Bhim Raj
11. Shri Nirmal Chatterjee
12. Shri Chaturanan Mishra
13. Shri Ramanand Yadav

REPRESENTATIVES OF THE OFFICE OF THE C&AG

1. Shri S. Sethuraman—*ADAI (Report)*
2. Shri M. Parthasarthi—*D.A.D.S.*
3. Shri N.R. Rayalu—*Joint Director (Reports) (Defence)*
4. Shri R.S. Gupta—*Joint Director (Defence Services)*

SECRETARIAT

1. Shri H.S. Kohli—*Chief Financial Committee Officer*
2. Shri K.K. Sharma—*Senior Financial Committee Officer.*

2. In the absence of the Chairman, PAC, Shri Bhiku Ram Jain was chosen to act as Chairman for the sitting.

3. The Committee considered and adopted the draft Report on action taken by Government on the recommendations contained in 147th Report of the Public Accounts Committee (Seventh Lok Sabha) relating to Purchase of second-hand transport aircraft from a private firm, with certain modifications/amendments as shown in the Annexure.

4. The Committee also authorised the Chairman to finalise the Report in the light of modifications/amendments suggested by Audit as a result of factual verification and present the same to the House.

The Committee then adjourned.

ANNEXURE

**Amendments/Modifications made by the Public Accounts Committee
at their sitting held on 7 July, 1984 (FN) in the Draft Report on
Action Taken on the 147th Report of PAC (7th Lok Sabha)
relating to Purchase of second-hand transport aircraft
from a private firm.**

Page	Para	Line	For	Read
2	1.4	13	period	periods
8	1.6	17	9/8.4.1873	6/8.4.1978
9	1.6	23	22.3.1984	22.3.1978
10		1	was	were
10	1.6	14	Government	the country

