

**FOURTH REPORT**  
**COMMITTEE ON PUBLIC UNDERTAKINGS**  
**(2004-2005)**

**(FOURTEENTH LOK SABHA)**

**AIR INDIA LTD. – UNDUE FAVOUR TO GENERAL SALES  
AGENT**

**MINISTRY OF CIVIL AVIATION**

(Action Taken by the Government on the recommendations contained in the 9<sup>th</sup> Report of the Committee on Public Undertakings (13<sup>th</sup> Lok Sabha) on Air India Ltd-Undue favour to General Sales Agent)



**Presented to Lok Sabha on** 20.04.05  
**Laid in Rajya Sabha on** 19.04.05

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

April 2005 / Chaitra 1927 (S)

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**COMPOSITION OF COMMITTEE ON PUBLIC UNDERTAKINGS  
( 2004 – 2005 )**

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Shri Rupchand Pal

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3. Shri Gurudas Dasgupta
4. Shri P. S. Gadhavi
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6. Dr. Vallabhabhai Kathiria
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**SECRETARIAT**

- |                      |                      |
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| 3. Shri J.P.Sharma   | Director             |
| 4. Shri Ajay Kumar   | Assistant Director   |
| 5. Smt. Lakbir Kaur  | Executive Assistant  |

## **INTRODUCTION**

I, the Chairman, Committee on Public Undertakings having been authorized by the Committee to submit the Report on their behalf, present this Fourth Report on Action Taken by the Government on the recommendations contained in the Ninth Report of the Committee on Public Undertakings (Thirteenth Lok Sabha) on Air India Limited- Undue favour to General Sales Agent.

2. The Ninth Report of the Committee on Public Undertakings(2003-2004) was presented to Lok Sabha on 28<sup>th</sup> April, 2003. Action Taken Replies of the Government to the recommendations contained in the Report were received on 7<sup>th</sup> March, 2005. The Committee on Public undertakings considered and adopted this Report at their sittings held on 5<sup>th</sup> April, 2005. The Minutes of the sitting are given in Appendix – I.

3. An analysis of the action taken by the Government on the recommendations contained in the 9<sup>th</sup> Report (2002-03) of the Committee is given in Appendix -II

New Delhi:  
5, April , 2005  
15 Chaitra 1927(S)

**Rupchand Pal**  
**Chairman,**  
**Committee on Public Undertakings.**

## **CHAPTER I**

### **REPORT**

This Report of the Committee deals with the action taken by the Government on the recommendations contained in the Ninth Report (Thirteenth Lok Sabha) of the Committee on Public Undertakings (2002-2003) on "Air India Limited – Undue favour to General Sales Agent" which was presented to Lok Sabha on 28<sup>th</sup> April, 2003.

2. Action Taken notes have been received from Government in respect of all the 10 recommendations contained in the Report. These have been categorized as follows :

- (i) Recommendations/Observations that have been accepted by the Government :

Sl.Nos. 2,3,4 and 7 (Total 4)

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

Sl.Nos. 1,5,6 and 9 (Total 4)

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

Sl.Nos 8 and 10 (Total 2)

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

Sl.No. NIL (NIL)

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

### **RECOMMENDATION (SL.NO.8)-RECOVERY OF EXCESS PAYMENT TO GSA**

4. Regarding recovery of excess payment made to GSA under PLI scheme by Air India, the Committee in their Ninth Report have recommended as follows :

"The Committee note that as per Audit Para the total excess payment made to GSA under PLI Scheme from 1987-2000 worked out to Rs.57.02 crore and further there was a release of excess payment of Rs.13.82 crore which was clearly inadmissible due to application of incorrect principles of calculation. The Committee find that according to CBI Report, excess payment of GBP 268,888 was made during 1997-98 on post facto basis by increasing the PLI from 5% to 7% on productivity. The fact of even this over-payment of GBP 268,888 has not been accepted as over-payment by the General Sales Agent and the recovery of this amount is not possible from the Bank Guarantee related to the current Consolidator ship Agreement with that firm. The Committee have been further informed that there is a possibility of remitting this matter to an Arbitrator for effecting recovery. The Committee find that Air India is in a helpless position in the whole matter and still they continue to deal with the same firm, although under a different name, as it finds no other alternative to get their business transacted in UK. The Committee desire that in the first instance the government should quantify the excess amount of overpayment made and thereafter make all efforts to recover the amount due expeditiously within a definite time-frame. In case the GSA does not agree to repay the excess payment made to them, the Committee recommend that their consolidator ship should be terminated forthwith and there should be no dealings whatsoever with the company or its associates in any form thereafter."

5. The Government have in their action taken reply on the above recommendation stated as follows :

1. "It is submitted that there was no excess payment made to GSA under PLI Scheme from 1987 to 2000 amounting to Rs.57.02 crores. Approvals for PLI payments were taken by the competent authority as per laid down procedures and subsequently by the Board and audited by the Govt. Auditors on an annual basis. This audit objection was never raised till the year 2000. The PLI payment was in accordance with market practice prevalent in airlines in the UK. The payment of PLI was volume related and did generate additional revenue which would not have been possible had these incentive payments not been made to the GSA, particularly in view of the fact that the competitors were following this practice and Air India could not afford, not to tailor make its practice in line

with competition. Had Air India not adopted the scheme of PLI payments with the approval of the Management/Board, Air India would incur heavy revenue losses, which would far exceed the PLI payments made.

2. The Committee's recommendation regarding excess payments, if any, has been noted and efforts would be made to recover it from the ex-GSA who is now a Consolidator. It is, however, submitted that it is not advisable to terminate any Consolidator ship Agreement unless & until alternate marketing and distribution channels are in place or else Air India will suffer heavy revenue loss in a competitive market like the U.K. Necessary action is being taken to develop alternate marketing channels/appoint new Consolidators after which a position could be taken to terminate the current Consolidator ship Agreement

3. The Air – India Board, at its 97<sup>th</sup> meeting held on 21<sup>st</sup> April 2004, decided that the management should again call the owners of M/s. Welcome Travels and arrive at a settlement pending litigation process. Accordingly M/s. Welcome Travels were called to Mumbai for discussions on May 20/21, and also subsequently provided necessary details. However, M/s. Welcome Travels have not accepted Air India's statement that PLI was paid to them in excess. Air India has initiated action in UK Courts for recovery of 268,888 Pound from M/s. Welcome Travels."

6. The Remarks of the Office of the C&AG on the Reply of the Government are as follows:-

1. "Reply of the Government is not correct as it was pointed out earlier also by Audit through its Local/Audit /Inspection Report during the years April 1988 to March 1992; July 1996 to September 1997; October 1997 to September 1998; October 1998 to October 1999 and November 1999 to October 2000. Audit agrees that the Air India can pay the PLI to its GSA/Consolidators if the same was in accordance with the legal binding contracts entered with them. However, since the payment of PLI in this case was made outside the contract entered with GSA, there was an excess payment of PLI during the years 1987-2000 to the extent of Rs.57.12 crore and further there was excess payment of Rs.13.82 crores, which was clearly inadmissible due to wrong application of principles of calculations. It is also to be mentioned that since Air India made the payment of PLI outside the contract, it was not able to recover excess payment of GBP 268, 888 for the year 1997-98 which was made on post facto basis by increasing the rate from 5 per cent to 7 per cent as per CBI report.

**2 & 3.** As the former GSA has denied the overpayment of PLB to him, the company has already initiated legal action for recovery of excess

PLB payment against him in UK Court, which is pending (November 2004)”

7. The Comments of the Ministry on the remarks of Office of C&AG are as follows:

**Point No. 1, 2 & 3:** “Corrective action has been taken in the Consolidators Agreement effective July 2000, which includes the payment of PLI. Air India will also include the clause of recovering excess payment, if any in the new Consolidators Agreement, which will be effective July, 2005.”

8. The Committee do not find the reply of the Ministry satisfactory. The main aspects of the above recommendation of the Committee were as follows:

- (i) The Government should in the first instance, quantify the amount of excess payment made to the GSA M/s Welcome Travels:
- (ii) The Government should make all out efforts for recovery of the excess payment; and
- (iii) The Government should terminate the existing Consolidatorship of M/s Gimvale Travels, alias Welcome Travels, in case the GSA did not agree to repay the excess amount paid to that company.

On the first aspect, the Committee note that the action taken reply of the Ministry is completely silent about quantifying the amount of excess payment. The Ministry have simply stated after two years that efforts would be made to recover the excess payment, if any. The expression, “if any”, used by the Ministry in the ATR towards the excess payment is not acceptable to the Committee particularly when it has been clearly established by the CBI in their report dated 27.11.2001 that excess payment of GB£ 268,888 was made by Air India to the GSA during 1997-98. The report also points



towards a possible nexus between the GSA and Air India's Marketing Manager in London who was getting "pecuniary favours from M/s Welcome Travels" as noted from the Government's reply. As a result, manipulated projections on seat utilization on the UK-India Sector were presented by the Air India, London Office, thereby inflating the PLI from 5% to 7% and as such the excess payment was made to the GSA. The Committee feel that the Government have not taken the recommendation of the Committee with all the seriousness. The Committee therefore, while reiterating their earlier recommendation, hold the firm view that in the first instance, the amount of excess payment must be quantified at the earliest.

On the issue of recovery of the above mentioned amount of excess payment to the GSA, the Committee note from the reply of the Ministry that the former GSA has not agreed to the Air India's contention that any excess payment of PLI has been made to him. Upon this, Air India Ltd. has initiated legal action in the UK Courts for recovery of excess payment from M/s Welcome Travels.

On the aspect of termination of the present Consolidatorship agreement of the ex-GSA in case of his non-refunding of the excess payment, the Committee take note of the argument advanced by the Ministry, that the termination of the Consolidatorship of M/s Welcome Travels may not be advisable until alternative Marketing and Distribution Channels are put in place or else Air India would

suffer heavy revenue losses. The Ministry have, however, further submitted that action is being taken to develop alternate arrangements. In this regard, the Committee observe that the report in question was presented to the Parliament in April, 2003 but even after a lapse of two years, Air India has failed to develop any alternate arrangements for carrying out their business. Rather they have continued to be solely dependent on the same M/s Welcome Travels. Taking a holistic view of the circumstances, the Committee feel that Air India is virtually allowing itself to be exploited by one particular Consolidator for carrying out its business which is against all prudent commercial norms and practices. The Committee, therefore, recommend that Air India should vigorously pursue the case and all out efforts must be made for expediting the recovery litigation of the excess payment from M/s Welcome Travels besides developing alternative Marketing Channels within a definite time-frame of two months from the date of presentation of this report.

**RECOMMENDATION (SL.NO 10)-APPOINTMENT OF  
GENERAL SALES AGENTS/CONSOLIDATORS**

9. Regarding the appointment of General Sales Agents by Air India, the Committee in their Ninth Report recommended as follows :

"The Committee note that three Consolidators were appointed on 11<sup>th</sup> July, 2000 by Air India for the territory of UK and Ireland in lieu of the hitherto GSA, M/s Welcome Travels. The Committee have also been informed that when the decision was taken to appoint Consolidators for UK and Ireland, the arrangement with M/s Welcome Travels as Air India's GSA for this territory was terminated. But the Committee find that on the one hand M/s Welcome Travels ceased to be AI's GSA for London & Ireland Territory, while on the other, their associate company M/s Gimvale Trading was accommodated as one of the Consolidators for that territory. The Committee have been informed that M/s Welcome Travels alias Gimvale Trading even now are able to do 80% of the current business, as Consolidators. Moreover, the Committee have been informed that the appointment of M/s Gimvale Trading as M/s Welcome Travels, as one of the three Consolidators has helped in maintaining a sense of continuity in the business for the region. From the entire episode, the Committee get an impression that Air India is bent upon retaining the services of M/s Welcome Travels in some guise or the other and have found the system of Consolidator ship as a convenient tool to achieve this purpose. The Committee do not understand as to how restricting the Consolidator ship, practically to one company only can help the achievement of the objective of ensuring competition among Consolidators in order to ensure wider coverage for the Airline and how this virtual monopolistic arrangement would protect the interests of the consumers. The Committee, therefore, recommends that urgent steps should be taken to ensure the appointment of more capable Consolidators in sufficient number for this territory so that the commercial and financial interests of Air India are protected."

10. The Government have in their action taken reply on the above recommendation stated as follows :

"A Committee has already been appointed with the Commercial Director as the Convener to explore alternate means of developing a distribution system so that Air India's revenue does not suffer on account of termination of a particular Consolidator ship. It is, further, submitted that it would not be advisable to unilaterally terminate any Consolidator ship without first considering the legal implication as Air India has, in the past, suffered heavy damages on account of abrupt termination of

agency/agreements. Secondly and more importantly, Air India's distribution and marketing set-up needs to be optionally developed in order to ensure that the market share of Air India is not affected as a result of the termination of the current Consolidator ship with M/s Welcome Travels.

2. Presently, Air India enjoys approximately 10% of the market share on the India/UK/India sector, which translates to net revenue of nearly UK Pounds 20 million. The UK/India/UK market is highly competitive and price sensitive and is dominated by 6<sup>th</sup> Freedom carriers apart from 3<sup>rd</sup> and 4<sup>th</sup> Freedom carriers who regularly undercut the fares on this sector. This cutthroat competition has led to an erosion of yields over the years in so far as an UK/India/UK ticket which was sold at approx. UK Pounds 400 during the lean season in the mid 1980s is being sold today at less than UK Pounds 350. This is mainly due to the dumping of capacity and fierce competition on this sector by the aforesaid carriers and unless Air India falls in line with the market practices followed by the other carriers, it would suffer huge revenue loss on account of massive capacity deployment on this sector.

3. M/s Greves Travel have been British Airways' sole Consolidator on the UK/India/UK market for the last several years (over 20 years). British Airways documents on this sector are exclusively sold through this Consolidator, which reveals that even the National Carrier of U.K. continues to rely only on one Consolidator in selling its market fares. Even Virgin Atlantic have now appointed only one Consolidator in the U.K. to sell their market fare tickets. The advantage of having 2 to 3 Consolidators should be that they are able to galvanize / canalize business through a larger number of sub-agents, cover a larger percentage of the territory and in addition also provide financial guarantee for realization of these monies since Air India would not be in a position with the limited infrastructure to deal individually with several hundreds of sub-agents all over U.K.

4. However, Consolidators are not exclusive AI agents and deal as IATA Agents with several airlines which could create a clash of interest. Air India has also developed alternate distribution channels for participating in BSP with established IATA agents who also contribute towards revenue of the region primarily on the UK/USA/UK sector.

5. There are more than 50 BSP/IATA agents who provide business to Air India through this channel. However, under the BSP, the bank guarantees are not to the individual airline but are centralized with the BSP. In the event of any default by an agent, the risk is shared proportionately by all airlines in the region of sales made by the agent. In other words, the risk factor in such a scenario is much higher as compared

to a Consolidator scenario where dedicated bank guarantees are taken in proportion to the volume of sales generated by the Consolidators.

6. The above submission is made in the light of the observations made by the Committee."

11. The Remarks of the Office of the C&AG on the Reply of the Government are as follows:

**Point No. 1.** "Reply of the Government that Air India cannot accept the recommendations of the Committee for appointing more capable consolidators than M/s. WCT (erstwhile Welcome travels) is not tenable, as the reasons given for appointing WCT could have been easily overcome by Air India. Since the agreement with WCT is valid only up to 10<sup>th</sup> July 2005, Air India Limited can use this leverage for getting the refund of excess PLI paid in earlier years to Welcome Travels while re-negotiating contract next year. Further the Report of the Committee is still awaited."

12. The Comments of the Ministry on the remarks of Office of C&AG are as follows:

**Point No. 1.** "As the current agreement with the Consolidators is valid up to 10 July, 2005, the Committee would be looking at the aspect of either continuing with the same consolidators and/or appointing new. The Committee would also revise the agreement to incorporate the remarks of C&AG."

13. The Committee note that the main thrust of their above recommendation was that instead of being virtually dependent on one consolidator (M/s Welcome Travels alias Gimvale Trading), Air India should appoint more capable Consolidators in sufficient numbers to promote their financial interests. However, the reply of the Ministry tends to give an impression that the services of the ex-GSA-cum-present Consolidator are

indispensable as, according to them, the termination of the Consolidatorship would cause huge revenue losses to Air India. The Ministry have tried to justify this by citing the example of British Airways which is having a sole consolidator for the last 20 years. The Committee are not at all convinced with such a justification. It appears paradoxical to the Committee that on the one hand, M/s Welcome Travels had not accepted the Air India's established claim of excess payment made to them forcing Air India to resort to litigation in UK Courts, while on the other, Air India is singing praise of M/s Welcome Travels alias Gimvale Trading for arranging its 80% business. The Committee feel that the Government should have taken expeditious steps after the CBI report was made available to it on 27.11.2001 to explore alternate channels for profitably running their business on UK/India/UK Sector instead of continuing with the same firm in the disguise of Consolidatorship. The Committee fully agree with the observations of the Audit that compulsions in re-appointing M/s Welcome Travels could have been easily overcome by Air India. The Committee also expect that the report of the committee appointed by Air India to explore alternative means of Marketing and Distribution would be finalized and

**implemented within two months from the date of presentation  
of the Report.**

## **CHAPTER –II**

### **RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT .**

#### **RECOMMENDATION (SL. NO. 2) NEED FOR TIMELY ANNOUNCEMENT OF PLI SCHEME**

The Committee are surprised to note that Air India approved the rate of PLI for different slabs of net revenue for 1997-98 after the close of the financial year in May, 1998. Similarly, the rates and slabs for payment of PLI for 1998-99 and 1999-2000 were approved towards the close of the financial year in February, 1999 and November, 1999 respectively. The Committee are of the view that the PLI scheme should be announced at the beginning of the financial year to encourage the Agents to put in their best efforts to boost the sale of Air India tickets in the course of that year. Announcement of the PLI at the close of the year or after the end of the financial year will not provide any incentive at all to the sales agents and is contrary to the concept of offering incentives for sales and as such constitutes an imprudent Commercial practice. The Committee feel that such practices will only breed corruption in the establishment and will not serve any useful purpose. The Committee, therefore, recommend that Air India should announce the contents of the PLI Scheme well before the commencement of every financial year with no ambiguities in the terms and conditions as to how the incentive would be computed and it should also be ensured that the acceptance of the terms and conditions are received well in time from the consolidators/sales agents.

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

1. Hon'ble Committee's recommendation is noted. Every possible effort will be made to announce the scheme at the commencement of the financial year without any subsidy in terms and conditions. Air India would also ensure that acceptance of the terms and conditions are received in time for Governments/Sales Agents. There are two factors to be reckoned in finalizing the PLI Scheme:

- i. The PLI Schemes released by rival airlines
  - ii. Uncertainty about Air India's capacity / frequency in the winter schedule.
2. Effort will however be made, despite these two variables, to adhere to the target.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)



## **Remarks of the Office of the C&AG on the Reply of the Government**

**Points No. 1 & 2** The announcement of PLI rates were also made for the years 2000 – 01 in August 2001 (i.e. after the end of the financial year) 2001-02 in March 2002; for the year 2002-03 in January 2003 and for the year 2003-04 in the month of October 2003. From these years Air India, London had made only on account payment.

### **Comments of the Ministry on the remarks of Office of C&AG**

**Point Nos. 1 & 2:** In the year 2004-05, the proposal for the PLI to the Consolidators was received in March 2004 and the same was approved on 15 April, 2004.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.03.2005)

### **RECOMMENDATION (SI.NO. 3) COMMISSION PASSED ON TO SUB-AGENTS BY GSA**

The Committee note that as per the executive instructions for the payment of PLI, Air India was to ensure that the GSA has passed on 9 percent commission to their Sub-Agents. Although Air India claim to have obtained certificates from the GSA regarding passing on the 9 per cent commission to their Sub-Agents, the Committee feel that mere obtaining of the certificates does not confirm the fact that the same has been passed on to them in reality. They feel that in financial matters, particularly when such types of commission are to be paid as per executive instructions. Air India should have devised some tangible method by virtue of which this fact could be verified. On the other hand, Air India seems to be satisfied with the fact that the certificates have been obtained from the GSA to this effect.

The Committee, therefore, desire that Air India should ascertain immediately from the Sub-Agents whether they have actually received the 9% commission from the GSA for the years 1997-98 to 1999-2000. They also urge the Government to give suitable instructions to Air India to insert an appropriate clause in the agreement under which the GSA should obtain certificates from the Sub-Agents of having received the commission and passed them on to Air India for record in future. Action taken in this regard may be intimated to this Committee at an early date.

### **Reply of the Government**

The payment of basic commission of 9% to Sub-Agents by the GSA is substantiated by the following documentation:

- (a) A confirmation from the GSA in writing as observed by the Hon'ble Committee.
- (b) Based on the approved market fares received by the GSA from Air India from time to time, the GSA used to circulate to all their Sub-Agents (approximately 1000 in U.K.), the net fares after incorporating 9% basic commission. Thus, the maximum fare payable by the Sub-Agents to the GSA was 9% less than the fare approved by Air India.
- (c) No complaint from the Sub-Agents to the principal airline, viz. Air India, was ever received from the Sub-Agents for having not received 9% basic commission from the GSA.
- (d) In addition, the GSA had to in fact pay higher than the basic 9% commission to some major Sub-Agents who were acting as Consolidators for them.

Air India has been suitably advised to insert a clause in the Agreement under which the GSA should obtain Certificates for the Sub-Agents for having received the Commission and passed them on to Air India for record.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

### **Remarks of the Office of the C&AG on the Reply of the Government**

- 1. Reply of the Government is not acceptable as they did not obtain the certificates from each sub agent that 9 percent commission was paid to them by GSA.
- 2. No such instructions so far have been received by the company from Ministry of Civil Aviation.

### **Comments of the Ministry on the remarks of Office of C&AG**

**Point No. 1:** The GSA agreement signed by Air India was with M/s Welcome Travels, who have confirmed in writing that the approved market fares were circulated to all their sub-agents incorporating the 9% basic commission. However, the GSA did not obtain written confirmation from each of approx. 1000 sub-agents that 9% commission was paid to them by the GSA.

**Point No. 2:** Corrective action will be taken in the new Consolidators Agreement, which will be effective from July 2005 by which the Consolidators will have to obtain certificates from the sub-agents for having received the commission. Such letters will then be passed on to Air India Management for record.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.03.2005)

#### **RECOMMENDATION (SI. NO. 4) ASSURED PLI AT VERY LOW LEVEL OF SALES**

The Committee note that although Productivity Linked Incentive (PLI) was to be provided beyond a certain level of net sales, Air India fixed the slabs of net sales qualifying for PLI payments at as low as 2 million for UK-India-UK sector, which has virtually made the concept of PLI irrelevant, as it assured incentive payments to the agent even in case of very low net sales. The reason extended by the Company for fixing the slab at 2 million does not appear to be logical in so far as it states that there is no standard slab system for grant of PLI. The Committee feel that the idea of granting PLI becomes a meaningless affair, if the minimum slab is fixed at an unreasonably low level of net sales. They, therefore, desire that the minimum level of net sales fixed earlier for grant of PLI may be reviewed.

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

As mentioned earlier, the PLI target slabs are based on capacity deployment and market conditions. In case of major change in capacity due to cancellations/strikes, force major disruptions of flights take place; the GSA would not be in a position to meet the higher target slabs. Therefore, the slabs start at a fairly low level, in this particular case at UKP 2 million. Air India also submit that this does not make any change in the amount of disbursement of PLI, as the GSA will always try to reach higher target slabs and earn more commission. Hence the low productivity slabs would only become relevant in case of certain eventuality, which is beyond the control of the Management or the GSA. The PLI target slabs for the Consolidators after July 2000 have also been based on the same principle.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

#### **Remarks of the Office of the C&AG on the Reply of the Government**

Reply of the Government is not acceptable as Air India can work out the average sales/revenue collection of each GSA/consolidators from the past data which is readily available and can fix the minimum slab at an appropriate high level to induce them for achieving higher sale. As regard any eventuality for not

achieving the minimum slab by the GSA/Consolidators due to factors beyond their control, the same can be modified and incorporated in PLI formulae based on the actual data available with Management.

### **Comments of the Ministry on the remarks of Office of C&AG**

Corrective action has been taken in the PLI offered to the Consolidators in view of the remarks that minimum slab should be fixed at an appropriate high level to induce higher sale. In the year 2004-05, the minimum PLI slab has been increased to GBP4 mill. from GBP3 mill. In the previous financial year and the payment of PLI is based on incremental productivity.

(M/o CA, O.M. NoH-11013/03/2002-AI dated...01.03.2005)

### **RECOMMENDATION(SI. NO. 7) FLAWED CALCULATION OF PLI**

Another issue highlighted by Audit is the flawed calculation of PLI. The Committee observe that Air India has not only calculated the PLI of the GSA from the first Pound, but has also increased the maximum rate of 5% on the highest slab to 7% with effect from 1997-98. The Committee is not at all convinced with the plea that it is the prevalent industrial practice that all incentives in UK are paid to the GSA from the first Pound and not on the basis of incremental productivity. The Committee also notes that although the Finance Wing had raised objections to the decision to increase the PLI rate from 5% to 7% from 1997-98 onwards, the Commercial Division set aside the objections and went ahead with the proposed increase. The Committee wishes to point out that the increase of the maximum PLI payable from 5% to 7% was resorted to only in respect of UK-India-UK sector, whereas in respect of other sectors such as USA/UK and UK/SE/FE/UK, it remained only at 5%. The Committee are of the view that the Table indicating PLI slabs has been formulated in such a manner that it is capable of being interpreted in different ways and is wrought with ambiguities and this has been exploited to benefit the GSA by the officers concerned who appeared to be zealously guarding the pecuniary interests of the GSA rather than that of their own Company. The Committee, therefore, recommends that the format of the Table should be suitably revised and put in unambiguous terms so that the liability of Air India is made definite from legal and financial angles.

### **Reply of the Government**

The system of paying PLI to the GSA has always been from the first Pound from early '80s onwards when PLI was first introduced in the UK market. Initially, when the PLI system was introduced, the targets were fixed in Indian Rupees. However, with the devaluation of the Indian Rupee vis-à-vis the UKL, it was considered more prudent to fix the target in UKL, as Air India would not suffer due to devaluation of the Indian Rupee.

2. The marketing plan of the station also contemplates that the PLI is paid from the first Pound onwards. Even recently, after the appointment of Consolidators in August 2000, AI has introduced a system of PLI for the Consolidators from the first Pound and this continues to be the market practice in the UK.

3. As regards the increase of PLI from 5% to 7% for 1997/98, the Committee comprising of officials from Commercial & Finance had considered and recommended in July 1997, all these aspects in detail to the then Commercial Director. An increase in PLI from 5% to 7% was recommended provided the target increases from UKL 15 million to UKL 18.5 million. This shows that the GSA was to be compensated at higher levels of PLI only after its attainment of productivity is at higher levels i.e. a growth in his net revenue as compared to the previous years.

4. The objection taken by the Finance Department. was not per se for increase in PLI from 5% to 7% but for finalizing the revised PLI slabs after the financial year was over, as this would draw criticism from Govt. Audit. However, Finance Dept. had clarified in their letter that Commercial Dept., could ultimately decide if it was in the commercial interest. Based on the recommendation of the CD the MD thereafter approved the reduction in target slab by 19% from UKL 18.5 million to UKL 15 million due reductions in capacity.

5. The Hon'ble Committee's recommendation in this regard is noted and instructions have been issued to clearly specify in table format in unambiguous terms, the payment of PLI so that the liability of Air India from legal and financial angles is made definite.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

#### **Remarks of the Office of the C&AG on the Reply of the Government**

1. Reply of the Government is not acceptable as the PLI are given for increasing sales revenue and since the Company was aware of the revenue generated in UK by GSA in previous years the PLI should have been paid for generating sales revenue higher than the average revenue generated in earlier years. For the year 2003-04 and onwards Air India Office has fixed the payment of PLI on incremental revenue as recommended by COPU/Audit.
2. Reply of the government is factually incorrect, as the marketing plan for the year 2004-05 did not even mention for the payment of PLI. The Air India, London office did not produce any papers/records relating to appointment of consolidators, except copies of the agreement with Consolidators which includes the clause for payment of PLI, Audit could

not verify the reply of the Government. However, the payment of PLI, which has been made as on account payment, to Consolidators from 1<sup>st</sup> pound is also not correct as commented earlier in case of GSA. Air India, London did not show any documentary evidence for calculating and paying PLI form 1<sup>st</sup> Pound as stated in reply.

3. Reply of the Government is not acceptable as the Air India was aware of the fact that GSA had achieved sales revenue of GBP 24, 484,000 during 1996-97 and thus increasing the maximum slab to GBP18.50 Mn was irrelevant. To achieve a higher sales revenue Air India should have fixed the slab at level higher than last year's sales. The PLI rates for the year 1997-98 was revised upwardly only in June 1998 i.e. after the closure of the year and the sales figures of GSA for that year were known by that time.
4. Reply of the Government is not acceptable as the Finance Department has clearly stated that audit might raise this objection indicating that they also did not agree with the increasing PLI rates after completion of the year and the figures of the sales revenue generated by GSA was known to Air India management thus giving undue benefit to the GSA.
5. The Company while finalizing the PLB slabs for the 2003-04 for its Consolidators in UK has complied with the recommendations of COPU.

#### **Comments of the Ministry on the remarks of Office of C&AG**

- |                     |   |
|---------------------|---|
| <b>Point No. 1:</b> | As mentioned in the Remarks of the C&AG, corrective action has been taken since the last two years regarding increased PLI targets set for the consolidators, to enable them to generate higher revenue for Air India.  |
| <b>Point No. 2:</b> | The Marketed Plan is forwarded by the station to the Marketing Division at least 2/3 months prior to the start of the financial year. The Resident Director based on the productivity in the last financial year sends the proposal for PLI subsequently.   |
| <b>Point No. 3:</b> | Corrective action has been taken in the PLI offered to the Consolidators, in view of the remarks that minimum slab should be fixed at an appropriate high level to induce higher sale. In the year 2004-05, the minimum PLI slab has been increased to GBP4 mill. from GBP3 mill. In the previous financial year and the payment of PLI is based on incremental productivity. |

**Point No. 4 & 5:** Corrective action has been taken in 2004-05 when PLI was finalized in April 2004, i.e. beginning of the year.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated... 01.03.2005)

### CHAPTER III

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

##### RECOMMENDATION (SI. NO. 1) PAYMENT OF PLI OUTSIDE THE TERM OF AGREEMENT

The Committee note that Air India had extended undue favour to its General Sales Agent (GSA) appointed for UK by providing Productivity Linked Incentive (PLI) claims outside the terms of the agreement during the year 1987-2000. The total amount released on such payments during these years was equivalent to Rs.57.02 crore. The Committee also understand that although the agreement signed between Air India and the General Sales Agent(GSA) clearly stipulates that the GSA should not be entitled for any remuneration for its sales in excess of normal sales commission, the GSA was extended benefits in the guise of incentive in an undue manner by Air India outside the terms of agreement. The Committee has also been told that in line with the industry practice in vogue, the additional incentive in the form of PLI is generally not covered by the agreement. The Committee at the outset wish to point out that the very introduction of PLI Scheme is violative of the provisions of the General Agreement entered into by Air India with its general Sales Agent and it is completely contradictory to the specific provision therein that GSA should not be entitled to any remuneration for its sales/services in excess of the normal sales commission. The Committee are of the view that even though Air India desired to fall in line with the practice followed by most airlines in the world, they earnestly feel that at least Air India should have incorporated in the PLI scheme a suitable provision to the effect that if it is found at a later date that excess payment has been made to the GSA, an amount equivalent to the excess payment made should be paid back to Air India by the GSA. What surprises the Committee more is that although a document was obtained from the GSA accepting that the PLI would be calculated on net revenue as per Air India formula vide GSA's letter No. WCT/107/OPG/048, dt. 18<sup>th</sup> June, 1998 and in subsequent letters each following year, no effort was made by Air India to bind the GSA to their undertaking to recover excess payments made to them, even if there is no specific clause stipulating that any excess payment would be paid back to Air India. Even after the audit has pointed out instances of excess payment, Air India has not obtained any undertaking from the Consolidators to repay any excess payments made to them. This speaks volumes about the degree of carelessness on the part of Air India.

The Committee also find that the PLI Scheme is outside the GSA Agreement and the arbitration clause contained in the agreement concerned only with the scope, meaning and construction of the agreement and nothing about PLI is covered under it. Surprisingly, the payment of PLI to the GSA, which involves monetary transactions and where chances of litigation are likely to



occur, is not covered under any separate agreement. It has also come to the notice of the Committee that since the Bank Guarantee relates to the current Consolidator ship Agreement dated July 11, 2000, it would not be possible to realize the dues as they relate to the period when the GSA Agreement was in force, which subsequently expired in July, 2000. The Committee takes a serious note of the casual attitude of Air India in not inserting any provision in the agreement, which would have ensured the repayment of excess amount paid to the GSA. From the entire episode it appears that some officials in Air India deliberately managed to extend

undue benefits to the GSA. The Committee, therefore, recommend that Air India should recover the excess payments made to the GSA by making use of the implied consent of the GSA in their letters dated 1<sup>st</sup> April, 1996, 3<sup>rd</sup> February, 1997, 18<sup>th</sup> June, 1998, 7<sup>th</sup> May, 1999 and 5<sup>th</sup> May, 2000. The Committee also urges the Government to devise suitable guidelines in this regard so that whenever any public sector unit has to execute such type of agreements with any party, they should insert relevant clauses in the agreement so that in case of default at any subsequent stage, the excess money paid may be recovered without any legal impediments.

### **Reply of the Government**

1. M/s. Welcome Travels were appointed as Air India's GSAs in the U.K. in 1986 and a formal GSA Agreement was entered into as per IATA rules. The standard IATA GSA Agreement prepared at the time of appointment (1986) stipulates no remuneration payable to the GSA other than the Basic Agency Commission of 9% and Overriding Commission of 3%.

2. Although the payment of Productivity Linked Incentive (PLI) to the GSA does not form part of the standard IATA GSA Agreement, almost all international airlines, in accordance with the industry practice and to enhance their market share agree to pay incentives to the GSAs by a separate intimation to the GSA each year. This is necessitated by the fact that the PLI slabs are bound to vary from year to year based on market condition and thus no standard formula can be incorporated in the standard IATA GSA Agreement at the time of appointment.

3. Thus, in conformity to the Industry practice, it has been Air India's policy to evaluate market conditions every year and propose appropriate slabs of PLI depending on factors such as available capacity, competitors' frequencies, prevalent market fares and practices, etc. All Auditors, including Government Audit, thus, always outside the purview of the standard IATA GSA Agreement, which has been submitted by Air India in reply to the queries, raise the arrangement for payment of PLI, in the past.

4. It may be pertinent to mention that the payment of PLI to the GSA/ Consolidator is continuing as of today at various stations/regions in the network, which is again outside the purview of the standard GSA Agreement. PLI is an accepted norm and common marketing practice, especially in the U.K., Gulf, India and Far East. Therefore in order to be competitive and to ensure that Air India is able to retain its legitimate market share in full, PLI becomes a necessary marketing tool to meet the desired objective of maximizing the revenues.

5. It is, therefore, apparent from the above that these schemes, which have been introduced in the Airline Industry and are followed by most airlines, are not a part of the standard GSA Agreement and these are paid in the commercial interest of the airline as per arrangement entered into with the GSA through a separate communication. The payment of PLI is also intended to motivate the GSA to achieve higher levels of revenue and market share. If such arrangements are not entered into to match competition, Air India will lose its market share, which will result in heavy revenue loss. This practice has been in vogue in the U.K. station since early '80s onwards and was in force with the previous GSA as well.

6. Since the payment of PLI to the GSA is made at the end of the financial year after establishing the productivity achieved as per the targets fixed by the management, there has never been a need felt to incorporate the clause of excess payment recovery. However, Air India has taken note of the recommendations of the Hon'ble Committee as regards incorporation of a suitable clause for recovery of any excess money paid under any agreement with the GSA/Agent and the same is being examined for implementation.

7. Based on the recommendations of the Hon'ble Committee, the GSA Agreement with M/s. Welcome Travels was terminated in July 2000 and three Consolidators were appointed in August 2000. We give below the Net Revenue of the GSA M/s. Welcome Travel and the Consolidators:

		(Amount in GBP)			
<u>GSA</u>		<u>Consolidators</u>			
	Welcome Travel	WCT	Travel Pack	Somak Travel	TTL
1996/97	24,484,000	-	-	-	24,484,000
1997/98	19,588,000	-	-	-	9,588,000
1998/99	20,176,293	-	-	-	20,176,293
1999/00	21,300,061	-	-	-	21,300,061
2000/01	6,730,000 (Approx.)	12,270,000	1,760,000	670,000	21,430,000
2001/02		12,417,000	3,335,000	696,000	16,448,000
2002/03		14,432,000	3,132,000	1,634,000	19,198,000

The decline in Revenue from August 2000 i.e. after the appointment of the Consolidators proves that the Consolidators who are not exclusive agents of Air India have not been able to produce revenues higher than the GSA system.

In order to protect its legitimate market share and to conform to the industry practice, Air India had agreed to pay PLI to these Consolidators also upto 5% from the 1<sup>st</sup> Pound on their entire revenue. However, as recommended by the Hon'ble Committee, instructions have been issued to take necessary precautions in obtaining undertakings from these Consolidators in order to protect Air India's future interests in the event of excess payment, if any.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

#### **Remarks of the Office of the C&AG on the Reply of the Government**

1. No remarks since factual position.
2. Reply of the Government is not tenable as a standard formulae based on known variables could have been prepared and incorporated in agreement and formulae would have been adjusted to accommodate the changes in variables every year. However, no evidence was produced to audit in support of this reply by Air India that payment of PLI to GSA does not form part of agreement as the same was paid in accordance with industry practice.
3. Reply of the Government is not acceptable for the reasons stated in Remarks of C&AG at point number 2 above.
4. No comments.
5. Reply of the Government is not acceptable as the payment of PLI was outside the terms of agreement.
6. The Headquarters of the company has informed the Commercial Department and Finance Department to take necessary action for implementing the recommendations of COPU. However, confirmations from these departments about implementation of these recommendations are yet awaited.
7. The reply of the Government that to protect the market share of Air India, PLI is being paid from GBP 1 is not acceptable as the incentive should have been fixed for achieving a higher target and by agreeing to make PLI payment from GBP 1 Air India gave undue rewards to the GSA. However,

from the year 2000-01, Air India London has taken the corrective steps and fixed the payment of PLI for sales above GBP 3,000,000, which was raised, to GBP 4,000,000 from 2004-05. Reply of the Government that instruction have been issued to take necessary precaution in obtaining undertakings from these Consolidators to protect Air India's future interest in event of excess payment does not appear to be correct as Air India, London has not received any such instructions so far (14<sup>th</sup> October, 2004).

### **Comments of the Ministry on the remarks of Office of C&AG**

**Point No.1:** No comments since factual position.

**Points No. 2, 3 & 5:** Productivity Linked Incentive to the GSA M/s. Welcome Travels was not mentioned in the agreement. However, corrective action has been taken by Air India when the Consolidators Agreement was implemented effective 11 July 2000. In the Consolidators Agreement, it has been mentioned that "The Consolidators may be given a Productivity Linked Bonus which will be linked to revenue targets up to a ceiling of 5% of the net revenue. The Principal will determine the Quantum and modalities of the Productivity Linked Bonus for each year. The decision of the Principal will be final in this regard.

**Point No. 4:** No comments.

**Points No. 6 & 7:** Instructions have been given to the Resident Director that proposal for PLI has to be sent and finalized in the beginning of the financial year latest by April. In the new Consolidators Agreement, which will be effective July 2005, Air India will incorporate a clause of recovery of any excess payment paid by the Principal.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.03.2005)

### **RECOMMENDATION (SI NO. 5) ROLE OF MANAGING DIRECTOR.**

The Committee note that the demand for increasing the PLI was put forward on the ground of alleged reduction in the flight capacity by 42% in 1997-98 which was subsequently proved to be an incorrect projection of figures by officers of Air India Limited. The Committee are concerned to note that the Administrative Ministry are satisfied with the fact that the Managing Director was to recheck or verify that data even when there was a projection of substantial reduction in flight capacity by as much as 42% and the financial implications of the proposal of was to the tune of a few crores. The Committee feel that such drastic reduction in projections of flight capacity should have shocked and

alarmed the Managing Director, who should have immediately called a meeting of the senior-most officers concerned to analyze every bit of details relating to the matter with a view to introducing appropriate remedial measures. It would be highly irresponsible if a Managing Director were to only go through a file on this grave matter quite mechanically, accepting blindly the statistics cooked up by his subordinates. The Committee feels that this instance of processing of this file should not be viewed in isolation, as it is actually a part of the whole scheme to favour a General Sales Agent by everyone concerned in Air India right upto the top. It is unfortunate that the matter had not been viewed by the authorities concerned in the proper perspective and even the investigating agencies have failed to appreciate this fact which had resulted in condoning a reprehensible act on the part of the then Managing Director. The Committee recommend that the whole matter should be re-examined with the open mind so that appropriate action is taken in the matter which should act as a deterrent in future. The Committee feel that no officer should be allowed to go unpunished and go into retirement with all perks and post-retirement benefits, if he had committed acts of deliberate intent or even indiscretion which had put a company, that was already on the red, to further loss. The Committee wish to add further that the example already set in this case will serve as a bad precedent which can be deliberately exploited by the Chief Executives of many Public Undertakings and therefore, they feel that there should be a complete review of the decision taken already in this regard.

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

1. As revealed from the documentation on file, it is evident that the Managing Director had depended on the feedback given to him by the officers concerned, but nevertheless before according an approval to the proposal, he had deliberated this issue and gone into the details.
2. As per records, the matter had been examined by the authorities at various levels concerned, including the Managing Director, and only after due consideration and deliberations in detail and based on the information then available the target slabs of PLI were revised and approved.
3. As observed by the Hon'ble Committee, the approval was given in May 1998 after deliberating and examining the issue for nearly five months. This goes to show that the same was deliberated and examined in depth and not approved mechanically in a routine manner.
4. As regards action against former Managing Director, Air India, the position has been stated in the reply given under Recommendation No. 9.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

### **Remarks of the Office of the C&AG on the Reply of the Government**

1 to 4. In the light of the fact that the Central Bureau of Investigation and Central Vigilance Commission both investigated the matter and had recommended no action against the former MD of the company, audit has no comments to offer.

### **Comments of the Ministry on the remarks of Office of C&AG**

**No comments.**

(Ministry of Civil Aviation, O.M. No H11013/03/2002 dated ...01.03.2005)

### **RECOMMENDATION(SI. NO. 6) AIR INDIA'S OWN SALES RECKONED FOR PLI**

The Committee note that the net revenue earned on the sale of tickets at the offices of Air India at Birmingham and Manchester was also included towards the net revenue of GSA. This benefited the GSA by enabling him to be eligible for a higher PLI slab. It appears to the Committee as if Air India is itself an agent of GSA, as Audit pointed out that GSA had been providing the assigned blocks of tickets to the offices of Air India's own staff at Birmingham and Manchester for sale by Air India's own staff and the sales are made on behalf of the GSA through the Air India Office.

The Committee are also disturbed to note that two different views had been expressed by Air India on the question of reckoning Air India's own sales figures from Manchester and Birmingham offices as the sales of GSA. While Audit has been informed by Air India that sales by Air India's own officers was permitted to be added to the sales figures of GSA on the ground that the GSA met a portion of the expenses of these offices, the Committee have been informed on the other hand that tickets were issued by Air India, but the sales was possible partly through the efforts of the Sub-Agents of the GSA.

The Committee are of the view that it was improper on the part of the Air India to include the revenue generated by the efforts of Air India's offices at Birmingham and Manchester in the net sales produced By GSA, as this addition would lead to unlimited increase in the quantum of PLI to be given to the GSA, as any such addition can easily alter the eligibility slab upwards to the advantage of GSA. The Committee, therefore, recommends that this matter should be de-linked from the issue of expenses being met by the GSA on the offices of Air India in Birmingham and Manchester and the liability of Air India and the GSA in this matter of expenses should be quantified separately in definite terms.

### **Reply of the Government**

1. As submitted earlier that:

- (a) Sales generated by Air India provincial offices in U.K., viz. Manchester and Birmingham, were through the efforts of the Sub-Agents of the GSA;
- (b) Air India had extremely limited selling and marketing infrastructure in the provincial offices, but for the efforts made by the Sub-Agents of the GSA to promote Air India business, the business would have been diverted to the competitors. Hence the business generated by these offices through the efforts of GSA is added to GSA's productivity. However, direct sale or Government of India sale is not added in determining the GSA's productivity.
- (c) Air India could not have sold the tickets directly to the walk-in passengers at the market fares floated by Air India through the GSA, as it is mandatory for the airline to sell the tickets at published fares and not market fares, since there is no provision to pay commission to the passengers. In addition, due to limited infrastructure, Air India would not be in a position to service hundreds of passengers who were being serviced by dozens of Sub-Agents in various cities in the Manchester and Birmingham territories.
- (d) The GSA was, therefore, required to compensate Air India by sharing staff salaries, rental and communication charges.

2. A few Sub-Agents who did not wish to channelise their business through the GSA preferred to get the ticketing done with Air India validation stamp and not bearing validation stamp of the GSA. In such cases as well, the GSA had guaranteed collections and payment to Air India on behalf of these agents. In all cases where the GSA through the Sub-Agents to the Air India provincial offices routes the business, the Bank Guarantee of the GSA covers the same. If Air India had adopted direct marketing, Air India would have to take a calculated risk and obtain Bank Guarantees from several Sub-Agents to prevent losses. In addition, in order to sell/market/recover all these dues Air India would have to maintain a large workforce.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

### **Remarks of the Office of the C&AG on the Reply of the Government**

**1 & 2:** Since the offices of Air India at Manchester and Birmingham has been closed down on 30<sup>th</sup> September, 2002 and no GSA appointed for Air India, London station, inclusion of sales by these offices in sales of GSA does not arise now. However, the fact remains that sales made by Air

India's offices at Manchester and Birmingham were included in sales of GSA for payment of PLI to GSA, which was not correct.

The reply of the Ministry of Civil Aviation is silent in respect of COPU's recommendations regarding the issue of de-linking the expensed being shared by GSA on the offices the company.

### **Comments of the Ministry on the remarks of Office of C&AG**

**Points No. 1 & 2:** The business of the sub-agents for direct ticketing at the Air India Offices in Manchester and Birmingham was actually routed by the GSA, as certain agents did not want tickets issued with the GSA stamp for their clients. These agents actually sub-agents of the GSA and would not have come directly to Air India Offices for ticketing.

(Ministry of Civil Aviation, O.M. No. H11013/03/2002 dated .01.03.2005)

### **RECOMMENDATION (SI. NO. 9)INADEQUATE PUNISHMENT TO OFFICERS INVOLVED**

The Committee note that the CBI has identified three officers of Air India who were responsible for making incorrect projections due to which the airline suffered a financial loss of GBP 268,888. The CBI has observed that this loss was avoidable if there had been deeper application of mind on the part of the officers. The officers concerned were the then Regional Director, London, the then Deputy Commercial Director and the then Commercial Director. Out of these three officers, the then Deputy Commercial Director and the then Commercial Director have already retired. The Committee understand that only some part of provident fund contribution has been withheld in respect of the Deputy Commercial Director, while in the case of the retired Commercial Director, only some post-retirement entitlements like medical and passages have been suspended with effect from September, 2001. The amount withheld and the value of facilities withdrawn in respect of these retired officers, according to Air India, are not sufficient for effecting recovery from the indicated officers considering the fact that the legal efforts for recovery of excess payment from the General Sales Agents are not likely to succeed as per legal opinion obtained by the Company. As regards the action taken against the then Regional Director posted at London, the Committee have been informed that initially a minor penalty of reduction of one stage in time-scale was imposed in November, 2002 for negligence in the performance of his duties which had resulted in loss to the Company. The Committee have been further informed that on an appeal from the officer concerned, the Chairman, Air India has reduced the said penalty to



censure. The committee find that the quantum of punishment/penalties imposed on the officers indicated by the CBI is too meager to act as a deterrent in future to stop such misdeeds by the officers in view of the huge loss suffered by Air India which runs to the tune of several crores. In fact, the Committee feels that the Management of Air India had been too soft in the matter and have virtually let everyone go free after having committed reprehensible acts, which had completely made the sick Company to bleed further. The Committee feels that there should be a complete review of the Air India Rules on the matter of award of penalties, as the Company has stated that action has taken as per rules of the Company. The Committee feel that there has been a deliberate attempt by the Air India management to shield the wrong doers and they, therefore, strongly recommend that more stringent and deterrent action should be taken against the officers indicated by the CBI so that it acts as a constant reminder to potential offenders in future in the Company.

### **Reply of the Government**

The case of showing undue favors to M/s Welcome Travels ex General Sales Agent (GSA) by restructuring Productivity Linked Incentive (PLI) to the advantage of Ex GSA without commensurate benefits to Air India Limited for the period 1992-93 and 1997-98 was handed over to Central Bureau of Investigation. The CBI registered a Preliminary Enquiry (PE) on 7.6.2001 and investigated this case.

2. In its report submitted to Government on 27.11.2001, CBI recommended as under:

- (i) No action against former Managing Director, Air-India Ltd. (under suspension);
- (ii) Such action as deemed fit against the then Regional Director, Air India, London (under suspension);
- (iii) Such action as deemed fit and permissible under the service and conduct rules of Air India, against the then Dy. Commercial Director (retired), Air India and the then Commercial Director (Retired), Air India;
- (iv) Initiation of action to recover the additional PLI, paid to M/s Welcome Travels, amounting to GBP 2,68,888 consequent to the revision of PLI slabs during May 1998.
- (v) During CBI inquiry the then Marketing Manager, Air India, London at that time had compiled the details of flight operated during 1996-97 and 1997-98 and had given the pattern of operations to the then Regional Director, Air India, London. However, during inquiry it also came to light that the former was getting

pecuniary favor from M/s Welcome Travels and this matter was separately under probe by the CBI.

CVC in agreement with CBI and this Ministry advised as under: -

- |       |  |                |
|-------|--|----------------|
| (i)   | Former Managing Director, Air-India Ltd.   | No action.     |
| (ii)  | The then Regional Director, Air India, London                                      | Minor Penalty. |
| (iii) | The then Marketing Manager, Air India, London                                      | Major Penalty  |
| (iv)  | To expedite recovery of additional PLI from M/s Welcome amounting to GBP 2,68,888. |                |

3. The following actions have been taken against the erring officers of Air India by the Management of Air India Limited: -

- (i) During inquiry it was revealed that the then Marketing Manager, Air India, London had admitted to giving the pattern of operations to the then Regional Director, Air India, London. Also there were notes in the handwriting of the then Marketing Manager, Air India, London that showed 42% reduction in the flight capacity. The inquiry also revealed that no evidence was on record to indicate dishonest intention on the part of the then Regional Director, Air India, London or any nexus with the GSA. He was, however, expected to exercise more care before recommending higher slab of PLI to M/s Welcome Travels. The Appellate Authority, therefore, decided that ends of justice would be met by awarding a penalty of "Censure" to him.
- (ii) Since the then Commercial Director (Retired), Air India and the then Dy. Commercial Director (Retired), Air India had retired from service of Air India Limited, before the inquiry commenced, the Air India Employees' Service Regulations ceased to be applicable on them. The only course of action left with Air India was to take recourse to other service rules. Accordingly, under the Passage Regulations, the passages and medical benefits were withdrawn from the then Commercial Director (Retired), Air India.

In case of the then Dy. Commercial Director (Retired), Air India Limited has withheld his employer's contribution of Provident Fund and gratuity. The then Dy. Commercial Director (retired), Air India has filed a writ petition in Gujarat High Court and the case is still pending.

- (iii) Regarding recovery of PLI paid to M/s Welcome Travels amounting to GBP 2,68,888, Air India has recently decided to call the owners of M/s Welcome Travels and arrive at a settlement pending litigation process. Accordingly M/s. Welcome Travels were called to Mumbai for discussions on May 20/21, and also subsequently provided necessary details. However, M/s. Welcome Travels have not accepted Air India's statement that PLI was paid to them in excess. Further necessary action for recovery of this amount (268,888 Pounds) has already been taken by filing recovery action in UK Courts.
- (iv) In relation to inquiry proceedings against the then Marketing Manager, Air India, London, CVC has appointed a CDI and inquiry proceedings are underway.

4. In the backdrop of this case, the Board of Directors' of Air India Ltd. amended Regulation 71 of Air India Employees Service Regulations, which is applicable to employees belonging to managerial and supervisory category. The new regulation 71– A provided as under: -

- (i) Disciplinary proceedings, if instituted while the employee was in service whether before his retirement or during his re-employment or on contract, shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.
- (ii) During the pendency of the disciplinary proceeding, the disciplinary authority may with-hold payment of retirement dues including gratuity, for ordering the recovery from retirement dues/gratuity of the whole or part of any pecuniary loss caused to the Company if the employee is found in a disciplinary proceeding or judicial proceeding to have been guilty of offences/misconduct.
- (iii) For the purpose of the completion of the disciplinary preceding which have been initiated prior to his retirement, the employee shall attend the pending enquiry /disciplinary proceedings till the completion of the same in the same manner, discipline and obedience within his right to withhold his retirement dues and post-retire mental facilities and benefits.

5. From the foregoing it may be concluded that the enquiry into the matter was conducted by an independent organization of the Government of India i.e. CBI. Moreover, the matter was examined in this Ministry in consultation with CVC. As the punishments were in consonance with the recommendations of the CBI and CVC, it is felt that Air India Management cannot be said to have deliberately attempted to shield the wrong doers in respect of the punishment awarded to the officers in the aforesaid case.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

In light of the fact that the Central Bureau of Investigation and Central Vigilance Commission both investigated the matter and the company has taken action accordingly against the all concerned employees audit has not comments to offer.

**Comments of the Ministry on the remarks of Office of C&AG**

No comments.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated... 01.03.2005)

## CHAPTER IV

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

#### **RECOMMENDATION (SL. NO. 8) RECOVERY OF EXCESS PAYMENT TO GSA**

The Committee note that as per Audit Para the total excess payment made to GSA under PLI Scheme from 1987-2000 worked out to Rs.57.02 crore and further there was a release of excess payment of Rs.13.82 crore which was clearly inadmissible due to application of incorrect principles of calculation. The Committee find that according to CBI Report, excess payment of GBP 268,888 was made during 1997-98 on post facto basis by increasing the PLI from 5% to 7% on productivity. The fact of even this over-payment of GBP 268,888 has not been accepted as over-payment by the General Sales Agent and the recovery of this amount is not possible from the Bank Guarantee related to the current Consolidator ship Agreement with that firm. The Committee have been further informed that there is a possibility of remitting this matter to an Arbitrator for effecting recovery. The Committee find that Air India is in a helpless position in the whole matter and still they continue to deal with the same firm, although under a different name, as it finds no other alternative to get their business transacted in UK. The Committee desire that in the first instance the government should quantify the excess amount of overpayment made and thereafter make all efforts to recover the amount due expeditiously within a definite time-frame. In case the GSA does not agree to repay the excess payment made to them, the Committee recommend that their consolidator ship should be terminated forthwith and there should be no dealings whatsoever with the company or its associates in any form thereafter.

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

1. It is submitted that there was no excess payment made to GSA under PLI Scheme from 1987 to 2000 amounting to Rs.57.02 crores. Approvals for PLI payments were taken by the competent authority as per laid down procedures and subsequently by the Board and audited by the Govt. Auditors on an annual basis. This audit objection was never raised till the year 2000. The PLI payment was in accordance with market practice prevalent in airlines in the UK. The payment of PLI was volume related and did generate additional revenue which would not have been possible had these incentive payments not been made to the GSA, particularly in view of the fact that the competitors were following this practice and Air India could not afford, not to tailor make its practice in line with competition. Had Air India not adopted the scheme of PLI payments with the approval of the Management/Board, Air India would incur heavy revenue losses, which would far exceed the PLI payments made.

2. The Committee's recommendation regarding excess payments, if any, has been noted and efforts would be made to recover it from the ex-GSA who is now a Consolidator. It is, however, submitted that it is not advisable to terminate any Consolidator ship Agreement unless & until alternate marketing and distribution channels are in place or else Air India will suffer heavy revenue loss in a competitive market like the U.K. Necessary action is being taken to develop alternate marketing channels/appoint new Consolidators after which a position could be taken to terminate the current Consolidator ship Agreement

3. The Air – India Board, at its 97<sup>th</sup> meeting held on 21<sup>st</sup> April 2004, decided that the management should again call the owners of M/s. Welcome Travels and arrive at a settlement pending litigation process. Accordingly M/s. Welcome Travels were called to Mumbai for discussions on May 20/21, and also subsequently provided necessary details. However, M/s. Welcome Travels have not accepted Air India's statement that PLI was paid to them in excess. Air India has initiated action in UK Courts for recovery of 268,888 Pound from M/s. Welcome Travels.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated...01.09.2004)

#### **Remarks of the Office of the C&AG on the Reply of the Government**

1. Reply of the Government is not correct as it was appointed out earlier also by Audit through its Local/Audit /Inspection Report during the years April 1988 to March 1992; July 1996 to September 1997; October 1997 to September 1998; October 1998 to October 1999 and November 1999 to October 2000. Audit agrees that the Air India can pay the PLI to its GSA/Consolidators if the same was in accordance with the legal binding contracts entered with them. However, since the payment of PLI in this case was made outside the contract entered with GSA, there was an excess payment of PLI during the years 1987-2000 to the extent of Rs.57.12 crore and further there was excess payment of Rs.13.82 crores, which was clearly inadmissible due to wrong application of principles of calculations. It is also to be mentioned that since Air India made the payment of PLI outside the contract, it was not able to recover excess payment of GBP 268, 888 for the year 1997-98 which was made on post facto basis by increasing the rate from 5 per cent to 7 per cent as per CBI report.

2 & 3. As the former GSA has denied the overpayment of PLB to him, the company has already initiated legal action for recovery of excess PLB payment against him in UK Court, which is pending (November 2004)

**Comments of the Ministry on the remarks of Office of C&AG**

Points No. 1, 2 & 3: Corrective action has been taken in the Consolidators Agreement effective July 2000, which includes the payment of PLI. Air India will also include the clause of recovering excess payment, if any in the new Consolidators Agreement, which will be effective July, 2005.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated... 01.03.2005)

**Comments of the Committee**

Please see paragraph 8 of Chapter – I of the Report.

**RECOMMENDATION (SI. NO.10) APPOINTMENT OF GENERAL SALES AGENTS / CONSOLIDATORS**

The Committee note that three Consolidators were appointed on 11<sup>th</sup> July, 2000 by Air India for the territory of UK and Ireland in lieu of the hitherto GSA, M/s Welcome Travels. The Committee have also been informed that when the decision was taken to appoint Consolidators for UK and Ireland, the arrangement with M/s Welcome Travels as Air India's GSA for this territory was terminated. But the Committee find that on the one hand M/s Welcome Travels ceased to be AI's GSA for London & Ireland Territory, while on the other, their associate company M/s Gimvale Trading was accommodated as one of the Consolidators for that territory. The Committee have been informed that M/s Welcome Travels alias Gimvale Trading even now are able to do 80% of the current business, as Consolidators. Moreover, the Committee have been informed that the appointment of M/s Gimvale Trading as M/s Welcome Travels, as one of the three Consolidators has helped in maintaining a sense of continuity in the business for the region. From the entire episode, the Committee get an impression that Air India is bent upon retaining the services of M/s Welcome Travels in some guise or the other and have found the system of Consolidator ship as a convenient tool to achieve this purpose. The Committee do not understand as to how restricting the Consolidator ship, practically to one company only can help the achievement of the objective of ensuring competition among Consolidators in order to ensure wider coverage for the Airline and how this virtual monopolistic arrangement would protect the interests of the consumers. The Committee, therefore, recommends that urgent steps should be taken to ensure the appointment of more capable Consolidators in sufficient number for this territory so that the commercial and financial interests of Air India are protected.

## **Reply of the Government**

A Committee has already been appointed with the Commercial Director as the Convener to explore alternate means of developing a distribution system so that Air India's revenue does not suffer on account of termination of a particular Consolidator ship. It is, further, submitted that it would not be advisable to unilaterally terminate any Consolidator ship without first considering the legal implication as Air India has, in the past, suffered heavy damages on account of abrupt termination of agency/agreements. Secondly and more importantly, Air India's distribution and marketing set-up needs to be optionally developed in order to ensure that the market share of Air India is not affected as a result of the termination of the current Consolidator ship with M/s Welcome Travels.

2. Presently, Air India enjoys approximately 10% of the market share on the India/UK/India sector, which translates to net revenue of nearly UK Pounds 20 million. The UK/India/UK market is highly competitive and price sensitive and is dominated by 6<sup>th</sup> Freedom carriers apart from 3<sup>rd</sup> and 4<sup>th</sup> Freedom carriers who regularly undercut the fares on this sector. This cutthroat competition has led to an erosion of yields over the years in so far as an UK/India/UK ticket which was sold at approx. UK Pounds 400 during the lean season in the mid 1980s is being sold today at less than UK Pounds 350. This is mainly due to the dumping of capacity and fierce competition on this sector by the aforesaid carriers and unless Air India falls in line with the market practices followed by the other carriers, it would suffer huge revenue loss on account of massive capacity deployment on this sector.

3. M/s Greaves Travel have been British Airways' sole Consolidator on the UK/India/UK market for the last several years (over 20 years). British Airways documents on this sector are exclusively sold through this Consolidator, which reveals that even the National Carrier of U.K. continues to rely only on one Consolidator in selling its market fares. Even Virgin Atlantic have now appointed only one Consolidator in the U.K. to sell their market fare tickets. The advantage of having 2 to 3 Consolidators should be that they are able to galvanize / canalize business through a larger number of sub-agents, cover a larger percentage of the territory and in addition also provide financial guarantee for realization of these monies since Air India would not be in a position with the limited infrastructure to deal individually with several hundreds of sub-agents all over U.K.

4. However, Consolidators are not exclusive AI agents and deal as IATA Agents with several airlines which could create a clash of interest. Air India has also developed alternate distribution channels for participating in BSP with established IATA agents who also contribute towards revenue of the region primarily on the UK/USA/UK sector.



5. There are more than 50 BSP/IATA agents who provide business to Air India through this channel. However, under the BSP, the bank guarantees are not to the individual airline but are centralized with the BSP. In the event of any default by an agent, the risk is shared proportionately by all airlines in the region of sales made by the agent. In other words, the risk factor in such a scenario is much higher as compared to a Consolidator scenario where dedicated bank guarantees are taken in proportion to the volume of sales generated by the Consolidators.

6. The above submission is made in the light of the observations made by the Committee.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated 01.09.2004)

#### **Remarks of the Office of the C&AG on the Reply of the Government**

Point No. 1. Reply of the Government that Air India cannot accept the recommendations of the Committee for appointing more capable consolidators than M/s. WCT (erstwhile Welcome travels) is not tenable, as the reasons given for appointing WCT could have been easily overcome by Air India. Since the agreement with WCT is valid only up to 10<sup>th</sup> July 2005, Air India Limited can use this leverage for getting the refund of excess PLI paid in earlier years to Welcome Travels while re-negotiating contract next year. Further the Report of the Committee is still awaited.

#### **Comments of the Ministry on the remarks of Office of C&AG**

Point No. 1. As the current agreement with the Consolidators is valid up to 10 July, 2005, the Committee would be looking at the aspect of either continuing with the same consolidators and/or appointing new consolidators. The Committee would also revise the agreement to incorporate the remarks of C&AG.

(Ministry of Civil Aviation, O.M. No. H 11013/03/2002 dated... 01.03.2005)

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

Please see paragraph 13 of Chapter – I of the Report.

**CHAPTER V**

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

**- NIL -**

**New Delhi  
5 April, 2005  
15 Chaitra, 1927(S)**

**RUPCHAND PAL  
CHAIRMAN  
COMMITTEE ON PUBLIC UNDERTAKINGS**

**APPENDIX I**

**(Vide para 2 of the Introduction)**

**MINUTES OF THE 12<sup>th</sup> SITTING OF THE COMMITTEE ON PUBLIC  
UNDERTAKINGS HELD ON 5 APRIL, 2005**

The Committee sat from 1500 hrs to 1600 hrs.

**CHAIRMAN**

Shri Rupchand Pal

**MEMBERS, LOK SABHA**

2. Shri Manoranjan Bhakta
3. Shri Gurudas Dasgupta
4. Shri P. S. Gadhavi
5. Dr. Vallabhabhai Kathiria
6. Shri Sushil Kumar Modi
7. Shri Kashiram Rana
8. Shri Mohan Rawale
9. Shri Rajiv Ranjan Singh
10. Shri Rajesh Verma
11. Shri Ram Kripal Yadav

**MEMBERS, RAJYA SABHA**

12. Prof. Ram Deo Bhandary
13. Shri Ajay Maroo
14. Shri Pyarimohan Mohapatra
15. Shri Jibon Roy
16. Shri Dinesh Trivedi

**SECRETARIAT**

- |    |                    |                      |
|----|--------------------|----------------------|
| 1. | Shri John Joseph,  | Additional Secretary |
| 2. | Shri J. P. Sharma, | Director             |
| 3. | Shri Ajay Kumar,   | Assistant Director   |

2. The Committee considered the draft Action Taken Report on Action Taken by the Government on the recommendations contained in the 9<sup>th</sup> Report (13<sup>th</sup> Lok Sabha) on 'Air India Limited – Undue favour to General Sales Agent' and adopted the same with minor modifications.

3. The Committee authorised the Chairman of the Committee to finalise the aforesaid Report and to present the same to the Parliament.

The Committee then adjourned.

## APPENDIX II

(Vide para 3 of the Introduction)

**Analysis of the Action Taken by Government on the recommendations/observations contained in the Ninth Report of the Committee on Public Undertakings (Thirteenth Lok Sabha) on "Air India Ltd. – Undue favour to General Sales Agent"**

I.	Total number of recommendations	10
II	Recommendations that have been accepted by the Government (vide recommendations at Sl. Nos 2,3,4 & 7)	4
	Percentage of total	40%
III	Recommendation which the Committee do not desire to pursue in view of Government's replies (vide recommendations at Sl. Nos 1,5,6 & 9)	4
	Percentage of total	40%
IV	Recommendations in respect of which replies of the Government have not been accepted by the Committee...(vide recommendations at Sl. Nos 8 & 10)	2
	Percentage of total.	20%
V	Recommendations in respect of which final replies of Government are still awaited	NIL