

10

AIR INDIA — UNDUE BENEFIT TO PRIVATE OPERATORS

**(MINISTRY OF CIVIL
AVIATION)**

**COMMITTEE ON
PUBLIC UNDERTAKINGS
1990-91**

NINTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

TENTH REPORT

**COMMITTEE ON PUBLIC
UNDERTAKINGS**
(1990-91)

(NINTH LOK SABHA)

AIR INDIA—UNDUE BENEFIT TO PRIVATE OPERATORS

(MINISTRY OF CIVIL AVIATION)

[Action taken by Government on the recommendations contained in the 58th
Report of the Committee on Public Undertakings (Eighth Lok Sabha)]



*Presented to Lok Sabha and
Laid in Rajya Sabha on
11 March, 1991*

**LOK SABHA SECRETARIAT
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Corrigenda to 10th Report of Committee on
Public Undertakings (1990-91) on Air India-
Undue benefit to private operators.

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Appendix II

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION	(v)
CHAPTER I REPORT	1
CHAPTER II Recommendations that have been accepted by the Government.	6
CHAPTER III Recommendations which the Committee do not desire to pursue in view of the Govern- ment's replies.	15
CHAPTER IV Recommendations in respect of which replies of the Government have not been accepted by the Committee.	16
CHAPTER V Recommendations in respect of which final replies of the Government are still awaited.....	24

APPENDICES

I	Minutes of the 35th sitting of Committee on Public Undertakings held on 6 March, 1991...	25
II	Analysis of Action Taken by the Government on the recommendations contained in the Fifty-Eighth Report of Committee on Public Undertakings (Eighth Lok Sabha).	27

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(1990-91)**

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*Elected w.e.f. 31.8.1990 in the vacancies caused by resignation of Shri Virendra Verma from Rajya Sabha on 14.6.1990 and of Dr. G. Vijaya Mohan Reddy from the membership of the Committee w.e.f. 9.8.1990.

**Elected w.e.f. 10.1.1991 in the vacancies caused by the appointment of Sarvashri Daulat Ram Saran and Hukumdeo Narayan Yadav as Ministers.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to submit the Report on their behalf, present this 10th Report on Action Taken by Government on the recommendations contained in the 58th Report of the Committee on Public Undertakings (Eighth Lok Sabha) on Air India—Undue benefit to private operators.

2. The 58th Report of the Committee on Public Undertakings was presented to Lok Sabha on 27 April, 1989. Replies of Government to all the recommendations contained in the Report duly vetted by Audit were received on 30 November, 1990. The replies of Government were considered and the report adopted by the Committee at their sitting held on 6th March, 1991.

3. An analysis of the action taken by Government on the recommendations contained in the 58th Report (1988-89) of the Committee is given in Appendix II.

NEW DELHI;

8 March, 1991

17 Phalguna, 1912 (Saka)

BASUDEB ACHARIA,

Chairman,

Committee on Public Undertakings.

CHAPTER I

REPORT

The Report of the Committee deals with the action taken by the Government on the recommendations contained in the Fifty-Eighth Report (Eighth Lok Sabha) of the Committee on Public Undertakings on Air India — Undue benefit to private operators which was presented to Lok Sabha on 27 April, 1989.

2. Action Taken replies have been received from the Government in respect of all the 15 recommendations contained in the Report. These have been categorised as follows :

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

Sl. Nos. 5, 8, 9, and 11 to 15

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

-NIL-

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

Sl. Nos. 1, 2, 3, 4, 6, 7, and 10

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

-NIL-

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

A. Grant of permission to private airlines

Recommendations Sl. Nos. 2, 3 and 4

4. Taking note of the fact that Air India opposed the proposal in 1978 of a private Airline Pushpak Aviation for permission to operate cargo flights from Bombay to Sharjah and also to carry passengers on the ground that it would have an adverse impact on the traffic carried by Air India, the Committee were surprised that, in total disregard of the commercial interests of the Corporation, permission was granted to Pushpak Aviation to operate such flights. Referring to admission of the Secretary of Ministry of Civil Aviation during evidence that this was done at the instance of the then Minister of Civil Aviation who, "by his persuasive charms managed to

persuade Air India" to agree to the operation of Pushpak Aviation, the Committee expressed their displeasure on such interference in the working of the Corporation.

5. The Committee also pointed out that the one and only reason for granting traffic rights to private Airlines was to uplift the perishable cargo from Bombay to Sharjah on account of inadequacy of Air India's cargo capacity. However, when there was permanent decline in demand for cargo capacity, consequent on the ban on meat export in April, 1980, what one would have expected of Govt. was to withdraw the traffic rights granted to private Airlines. Regrettably this was not done. Instead Pushpak Aviation was also permitted to carry 500 passengers per month from Bombay to Sharjah to compensate the loss of cargo load. According to the Committee, the reasons for taking such strange decisions were inexplicable.

6. In their reply the Ministry have *inter alia* stated that sometimes commercial interests have to subserve the needs of exports and tourism. However, when asked further to clarify and to support with statistical data as to how granting of permission to Pushpak Aviation was prompted by the needs of exports and Tourism, the Ministry stated that the reply of Govt. was of the nature of general statement indicating that the considerations before the Government in taking decisions are larger and different from those of Air India. The Ministry have also stated that it would have been undesirable to withdraw the carriage rights in view of the fact that there was heavy demand for other perishables such as vegetables, fruits and mangoes. It would not have been desirable to withdraw permission merely because the export of meat had been banned temporarily.

7. The Committee regret to note that the replies furnished by the Ministry are too general and evasive. The Ministry have tried to justify the granting of permission for operation to Pushpak Aviation despite objection from Air India on the ground that sometimes commercial interests have to subserve the needs of exports and tourism and the considerations before the Govt. in taking decisions were larger and different from those of Air India without clarifying as to what were these considerations or how it served the needs of exports and tourism and to support their contention with facts and figures. Similarly the Ministry have sought to defend the permission granted to increase in the number of passengers which could be carried by the private airlines instead of withdrawing the traffic right on the decline in demand for cargo capacity, consequent upon the ban on meat export in April, 1980, on the ground that there was heavy demand for other perishables such as vegetables, fruits and mangoes. If that was so, it was all the more desirable that the airline should have been asked to carry more of other perishable articles than to grant them permission to carry increasing number of passengers which affected the commercial interests of Air India. The Committee

therefore cannot help reiterating that the decision of Govt. to grant permission to the private airlines to carry passengers and to progressively increase the number of such passengers was not justified.

B. Air Corporations' Act 1953

Recommendation Sl. No. 6

8. The Committee were distressed at the manner in which the provision of the Air Corporations' Act had been flagrantly misused in order to benefit the private operators. Under the Air corporations' Act it is unlawful for any one other than the Corporation or its associates to operate any scheduled air transport service which is provided by the Corporation. In order to circumvent this legal obstacle, Air India entered into an agreement with Pushpak Aviation and Huns Air to operate as associates of Air India. The Committee observed that as a result, the Associateship status granted to the private operators to operate international scheduled services not only siphoned away Air India's legitimate traffic and revenue but also resulted in much wide repercussions to the detriment of the country's Aviation policies and objectives. In effect a situation had been created wherein international air services had been denationalised through back door without a conscious decision of the Government.

9. In their reply the Government have stated as follows;—

"Both operators Pushpak Aviation and Huns Air were Indian non-scheduled operators which operated old aircraft taken from Indian Airlines. Having purchased the aircraft from Indian Airlines it is only natural that these operators would like to put these aircraft into use. Maintenance of these aircraft involves heavy overheads. It cannot be said that there is anything wrong, in case the Government decides to utilise this capacity for promotion of exports. Whether to allow an exclusive right to the nationalised airlines or to allow private airlines also into the field is a legitimate policy question in which the Government can take a decision. The Government has to balance the commercial interests with overall national interest like optimum utilisation of its resources for export promotion etc. It may be mentioned that very rigid policy on the part of Government would only discourage the private sector from entering into Civil Aviation field especially during the present times when important committees like the National Committee on Tourism and Working Group on 8th Plan have found that the National Carriers would not be able to generate enough resources to acquire the required capacity and have recommended partial privatisation. It may also be mentioned that the Government has already announced the Air Taxi Scheme where operators including those in the private sector would be able to

operate Air Taxis between approved domestic airports to supplement the efforts of national carriers."

10. In a further reply furnished to the Committee, the Government have stated that the air taxi operations, at present, undertake non-scheduled operations and therefore the provisions of Section 18 of the Air Corporations' Act are not attracted.

11. The Committee had pointed out how the provisions of the Air Corporations' Act were circumvented by Air India by entering into an agreement with the two private Airlines to benefit them to the detriment of Air India's commercial interests. The Government in their reply have sought to justify it on the ground that Government have to balance the commercial interests with overall national interest like optimum utilisation of its resources for export promotion, etc. As pointed out by the Committee earlier, the Government have not clarified as to how the progressive increase in the number of passengers which could be carried by the two airlines served the national interest. The Committee are, therefore, not convinced by the reply furnished by Government.

12. The Ministry have also referred in this connection to the Air Taxi Scheme where operators including those in the private sector are able to operate Air Taxis between approved domestic airports to supplement the efforts of national carriers. According to Section 18 of Air Corporations' Act, 1953, however, it is not lawful for any person other than the Corporations or their associates to operate any scheduled air transport service from, to, in or across India except that which is not provided by either of the Corporations or their associates. As per reply furnished by Government Air Taxi operations at present undertake non-scheduled operations and therefore, the provisions of Section 18 of Air Corporations' Act are not attracted. The Committee, however, find that air taxis operations are permitted to all airports in the country which are open to scheduled operations. The restriction that air taxis should operate two hours before or after the scheduled time of the flights of Indian Airlines and Vayudoot has also been abolished. The taxi operators have also got fixed time schedule for their flights. The Committee, therefore, fail to understand as to how the services provided under Air Taxis scheme could be considered as non-scheduled operations. The Committee, therefore are of the view that the air taxi operations are not covered by the Air Corporations' Act and the matter needs to be examined further in the light of the provisions of the Air Corporations' Act.

C. CBI enquiry into the episode

Recommendation Sl. Nos. 7 and 10

13. The Committee observed that the startling disclosures in this case indicate the need for a thorough probe into the whole episode starting with the issue of granting traffic rights to Pushpak Aviation in 1978 and ending with the joint operation of Air India with the Private airlines from 1981 to

1983. Taking note of the fact that no investigation was conducted into the matter despite obvious improprieties and doubtful conduct by those in power at that time in the Ministry of Civil Aviation as well as in Air India, the Committee desired that the whole case should be referred to C.B.I. for a probe with a view to finding out who were responsible at various stages in the episode and the extent of the role played by them. The Committee desired to be informed of the outcome of the 'probe' and 'action' taken against those found guilty.

14. In their reply the Government have stated that permission granted to the private operators could very well have been due to a genuine desire for utilisation of the capacity available with them for export promotion. Considering that acquisition of aircraft capacity is a costly affair and there is persistent shortage of funds with the national carriers, such a policy does not appear to be entirely out of place. The Government have stated further that on considering the fact that there is very little in the records to prove otherwise and many of the officers who were in the Ministry of Civil Aviation are no more in service, an enquiry will serve very little purpose at this stage. The Government have further stated that on the contrary constitution of a CBI Inquiry at this stage may only frighten away prospective private sector entrepreneurs from entering into the field of Civil Aviation and that officers dealing with such proposals may also be reluctant to take decisions for fear of enquiries.

15. The Committee deprecate the stand taken by Government in regard to their recommendation for instituting a CBI inquiry in this case. They fail to understand as to how the inquiry into this case would frighten away prospective private sector entrepreneurs from entering into the field of Civil Aviation, if the need so arise, or to make officers dealing with such proposals reluctant to take decisions for fear of inquiries so long as no unfair means are adopted to influence any decisions of the Government and the conduct of the officers handling these cases was not doubtful. On the contrary, the inquiry will bring the guilty to book and will act as a deterrent for others in future. The Committee, therefore, reiterate that the whole case should be referred to CBI for a probe and the Committee apprised of the outcome.

CHAPTER II

RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation Serial No. 5

As a fall out from above, Huns Air also sought authorisation in August 1980 to carry passengers from Bombay to Sharjah. Air India opposed this proposal pointing out that if the request of Huns Air was acceded to Air India would stand to lose about Rs. 3.6 lakhs per month in revenue. The then Civil Aviation Secretary also recorded a note in this connection stating that "we have to work out a proper balance between allowing the private airlines to function and ensuring that they do not adversely affect Air India services. If it comes to withdrawing the facility given to Pushpak Airlines, we should not hesitate to do so, if ultimately that is the only alternative left to us." Subsequently, however, Air India conveyed its "No Objection" to the proposal and Huns Air was allowed to carry 500 passengers from September, 1980. The Committee have reasons to believe that in this case also pressure was brought on Air India to yield to the request of Huns Air. The Committee deprecate this.

Reply of the Government

As per the records of this Ministry, Air India had initially not agreed to grant of permission to carry 500 passengers per month on sector Bombay-Sharjah to Huns Air. Subsequently a telex was received from Air India conveying their no objection to Huns Air to carry 500 deck class passengers. This was granted with the approval of the then Minister of Civil Aviation. It could not be ascertained on the basis of records whether any pressure was brought on Air India to change their stand.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028 / 3 / 86-PIN
Dated 13.12.1989]

Recommendation Serial No. 8

Yet another instance which the Committee are distressed to find relates to the renewal of 'associateship' agreement with Pushpak Aviation in 1983. The original agreement with Pushpak Aviation which expired on 9.3.1983 did not contain a renewal clause. The then Chairman of Air India (Shri Raghu Raj) however, agreed to the extension of the agreement with Pushpak Aviation for a further period of three years without the prior approval of the Government and without even modifying to their advantage the terms and conditions of the original agreement. According to Air

India its records do not indicate the reasons for this action of the then Chairman of Air India. The Committee observe that the Director of Regulations and Information in the Office of the Director General of Civil Aviation also accorded clearance to the extension of the agreement. The Ministry of Civil Aviation subsequently, however, raised an objection to the extension and directed Air India to place the matter before the Board of Directors. The Board however, refused the extension of the agreement.

Thereafter, the operations of Pushpak Aviation and Huns Air, were terminated. Meanwhile, Pushpak Aviation continued to operated for about four months and Huns Air for about three weeks without the authorisation of the Government.

Reply of the Government

It has been indicated in Air India's letter No. MKT / GSR / 20-8 of June 19, 1983 to the then Secretary, Ministry of Civil Aviation, that in January 1983, M/s Pushpak Aviation requested Air India to extend their "Associateship Agreement" for a further period of seven years from 1983. Air India conveyed its 'No Objection' to extending the validity of the "Associateship" but only for three years. The Government at this stage asked Air India to go to the Board for approval of the extension of the commercial agreement for three years. As the Board had not approved the extension, the agreement was not extended beyond 9.3.83 in the case of Pushpak Aviation. The actual operation however continued upto 15.7.83 in anticipation of approval.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028 / 3 / 86-PIN
Dated 13.12.1989]

Recommendation Serial No. 9

On grounds of their equipment being inferior to the equipment used by Air India and Gulf Air, Pushpak Aviation and Huns Air had been allowed by the Government to charge fares lower than the published fare. In addition to the formal price advantage granted to these private operators, they reportedly offered further price inducements in the market place. As a result they had been able to make serious inroads into Air India's traffic between Bombay and Sharjah / Dubai. The Committee are of the view that the decisions of Government to approve IATA established fares and rates for scheduled operations on one hand and then grant authorisations to private operations for operation parallel services at reduced fares on the other was totally against the prudent commercial practices.

Reply of the Government

It would not have been practical to enforce the IATA fares for this non-scheduled operators. In the first instance the non-scheduled operators were operating with old aircraft which were phased out by the Indian Airlines. It is only natural that their operating cost would have been more. Further, because these operators had a couple of aircraft only, the economies of scale would not be there. The product of non-scheduled operators was also inferior in terms of dependability, safety and passenger amenities. Accordingly it is also possible that most of the passengers using these non-scheduled aircraft would have travelled by sea had this facility not been there. In fact, the perusal of Air India load factor during the period 1981-83, when the associateship with Pushpak Aviation and Hans Air was in progress does not show any downward trend. On the contrary the load factor had increased during this period.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028 / 3 / 86-PIN
Dated 13.12.1989]

Vetting Remarks of Audit

The actual load factor during the period 1981-83 was between 25% and 54% which was lower than other period. Thus, the load factor has not increased.

Reply of the Government

No Comments. Accepted.

[Ministry of Civil Aviation O.M. No. AV. 14028 / 3 / 86-AA Dated
30.11.1990]

Further information called for by the Committee

[Ref. O.M. No. 11 / 2(1)-II-PU / 89 dt. 23.11.90]

Air India commenced direct flights to Sharjah only in March, 1981. Please substantiate the above assertion of the Government with the data relating to Air India's load factor on the Sector Bombay / Trivandrum-Sharjah during 1981-83 in the Sector Bombay-Dubai during 1978-81.

Further reply of the Government

Air India does not maintain records of load factors on individual routes, but only on sectoral basis. Attention is also invited to the reply of the Government, on the vetting remarks of the audit, pertaining to this recommendation.

[Ministry of Civil Aviation O.M. No. AV. 14028 / 3 / 86-AA Dated
13.12.1990]

Recommendation Serial No. 11

The Committee observe that no approval of Board of Directors was taken on the question of entering into "associationship" agreements with private airlines although Air India had taken a stand that the operations by private airlines were detrimental to the commercial interests of the organisation and resulted in dilution of the declared aviation policy of the Government. The Committee do not agree with Air India's contention that the approval of Board of Directors for such commercial agreements is not necessary, as it is a matter to be handled at the level of the Departmental Heads of Planning and commercial with the approval of the Chief Executive. Evidently there had been misuse of power by the Chief Executives from time to time, whatever be the circumstances responsible for this. The Committee, therefore, desire that in future, the justifications and implications of entering into 'Associationship' agreement, if at all a need arise, should be considered and decided by the Board before seeking the prior approval of the Government. The Committee need hardly point out that the officers holding responsible positions should display absolute integrity and total commitment to the organisation, howsoever testing the circumstances may be. The Committee expect them to take a principled stand in such situations in public interest and also in the overall interests of the organisation.

Reply of the Government

The Committee's recommendations are being conveyed to Air India for future compliance.

[Ministry of Civil Aviation O.M. No. AV. 14028/3/86-AA Dated 30.11.1990]

Vetting Remarks of Audit

The Committee's recommendations have not been conveyed to Air India so far.

Reply of the Government

Recommendations of the COPU have been conveyed to Air India.

[Ministry of Civil Aviation O.M.No. AV. 14028 / 3 / 86-AA Dated 30.11.1990]

Recommendation Serial No. 12

For international operations where operations by the non-scheduled carriers are considered necessary, 5% royalty payment is generally sought by Air India as compensation. The Committee regret to observe that no royalty payment was collected from the non-scheduled private operators till March 1981 although the estimated loss to Air India from January 1975 to March 1981 due to carriage of passengers by these operators works out to be Rs. 233.52 lakhs. In this connection, during evidence, when asked whether Air India claimed royalty compensation from non-scheduled

operators for their operations during 1975 to 1981, the Managing Director, Air India stated that the question of claiming royalties from the private operators did not raise as they were allowed to operate in consultation with Air India and in the interest of carrying cargo out of India. Air India reportedly started pressing for royalties from 1978. The Committee would like to know as to why Government did not determine the royalties to be claimed from the private operators for the period from 1978 to 1981 as required under Section 18(1) (e) of the Air Corporations's Act and what action was taken against the persons found responsible for this lapse.

Reply of the Government

From available record in Air India, the basis of determining royalty amounts is not available. Obviously, the low level of royalty amounts was based on the claim of these private carriers that their operations were not economical or barely economical. Section 18(1) (e) of Air Corporations Act does not lay down any guidelines in regards to rates of royalties. The royalty, if any to be charged, is determined by Commercial considerations.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028 / 3 / 86-PIN'
Dated 13.12.1989]

Vetting Remarks of Audit

The Government's reply to the recommendation is not specific. Ministry has stated that Section 18(1) (e) of the Air Corporations Act does not lay down any guidelines in regard to rates of royalty and if royalty is to be charged it should be on commercial considerations. It is clear that commercial considerations of Air India were not kept in view while deciding the quantum of compensation. The inaction on the part of the Government in not determining the royalty in Air India's interest has not been answered by Government.

Reply of the Government

Royalties in international operations are determined by route characteristics and nature of operations. The spirit behind the COPU observation has, however, been noted for future guidance.

[Ministry of Civil Aviation O.M.No. AV. 14028 / 3/ 86-AA Dated
30.11.1990]

Further information called for by the Committee

[Ref. O.M. No. 11/2(1)-II-PU/89 dt. 23.11.90]

Please give specific reply explaining the reasons for not determining the royalties to be claimed from the private operators during 1979 to 1981.

Further reply of the Government

Royalties in international operations are determined by route characteristics and nature of operations. The spirit behind the COPU observation, however, has been noted for future guidance.

[Ministry of Civil Aviation O.M.No. 14028 / 3 / 86-AA Dated 13.12.90]

Recommendation Serial No. 13

According to the formula for sharing of revenues for operating on the domestic sector, 55% of the revenues (lately 40%) earned by Air India are paid to Indian Airlines. The Committee feel that when Pushpak Aviation and Huns Air were permitted to operate scheduled air services in association with Air India during 1981-83, Air India ought to have claimed compensation on revenue sharing basis according to the above formula. This has not, however, been done. The Committee are astonished to note that Air India charged only a royalty of Rs. 1000 per flight from Pushpak Aviation and Rs. 500 per flight from Huns Air which, in Committee's view is ridiculous. Even the Secretary, Civil Aviation was candid enough to admit during the course of evidence that in the case of Pushpak Aviation the royalty was less than even the fare of one passenger. Against a net revenue loss of Rs. 552 lakhs from April, 1981 to July, 1983, only a nominal royalty compensation of Rs. 11.95 lakhs was recovered from these airlines. The Committee have been informed that no reasons have been recorded on Air India's files for claiming low level of royalty compensation. The reasons are, however, not difficult to understand when a private party is given undue advantage at the cost of the Corporation. According to the Secretary, Civil Aviation, "so far as the terms of agreement with the private airlines are concerned, the Government does not come into the picture and it is entirely for the Air India Board to consider it." The Committee feel that the Government cannot absolve themselves of the responsibility in this matter. They should have examined the justification of the terms and conditions of the agreement before according their approval.

Reply of the Government

The 55:45% formula was applied to Domestic carriage within India. Indian Airlines are the Domestic Carrier within India and therefore they had a share of the domestic revenue earned by Air India. The same basis need not hold good for arrangements with Pushpak Aviation and Huns Air who operated international air services under a low yield situation. It may be mentioned that in international sectors Air India has no monopoly and many other airlines including Indian Airlines in some sectors are operating.

[Ministry of Civil Aviation and Tourism O.M.No. AV. 14028 / 3 / 86-PIN. Dated 13.12.1989]

Vetting Remarks of the Audit

When the traffic rights of Air India is transferred to private airlines, a suitable revenue sharing formula just as in the case of Air India pool partners should have been worked out. This has not been done and the Government has also kept silent on this point.

Reply of the Government

It is not possible to apply revenue sharing formulae informally to all situations. Each case has to be looked into on merit. The spirit behind the COPU observation, however, has been noted for future reference.

[Ministry of Civil Aviation, O.M.No. AV. 14028 / 3 / 86-AA Dated 30.11.1990]

Further information called for by the Committee

[Ref. O.M.No. 11-2(1)-II-PU / 89 dt. 23.11.90]

Please explain why Government did not examine the justification terms and conditions of the agreement entered into by Air India with private airlines.

Further reply of the Government

It is not possible to apply revenue sharing formula uniformly to all situations. Each case has to be looked into on merits. The spirit behind the COPU observation, however, has been noted for future reference.

[Ministry of Civil Aviation O.M.No. AV. 14028 / 3 / 86-AA Dated 13-12-90]

Recommendation Serial No. 14

Air India's load factor on Bombay / Trivandrum / Sharjah sector during April, 1981 to March, 1983 was reported to be only between 25 and 54 per cent which clearly indicates that Air India could have absorbed the passenger traffic permitted to be carried by Pushpak Aviation and Huns Air. It is surprising that Air India's load factor was never reviewed while authorising progressive increase in the number of passengers to be lifted by the non-scheduled operators and also when the private operators were allowed to operate as Associates of Air India. All this indicates how the commercial interests of the national carrier were disregarded in order to benefit the private operators.

Reply of the Government

Air India's load factor during 1981-83 period on the Gulf sector are as follow:—

follows:—	Pax L.F. (%)	Ov. L.F. (%)
1981-82	67.0	57.3
1982-83	69.7	61.8
1983-84	65.5	60.8
1984-85	62.9	59.3

The approval for signing of commercial agreement with Pushpak Aviation and Huns Air were given after Air India approached the Government for clearance. The Commercial aspect of the agreement was also negotiated by Air India itself with the concerned companies. The loss of Rs. 551.88 lakhs calculated to have been incurred by Air India is only a notional figure on the basis of the calculation that Air India would have carried 40% of the traffic carried by the two airlines (on the basis of Air India's 40% market share). This assumption also pre-suppose that no fresh traffic has been generated due to the marketing efforts on Pushpak / Huns Air. It also neglects the possibility that this traffic would have been carried by sea, but for the reduced fare offered by these airlines.

[Ministry of Civil Aviation & Tourism O.M.No. AV. 14028 / 3 / 86-PIN. Dated 13.12.1989]

Vetting Remarks of Audit

The pax load factor and overall load factors's of Air India of Indian / Gulf Sector as stated in Government's reply is correct. However, it may be stated that the COPU Report is related to the load factor of Air India on Bombay-Sharjah Sector which was between 25% and 54% during the period 1981-83.

Reply of the Government

No Comments

[Ministry of Civil Aviation O.M.No. AV. 14028 / 3 / 86-AA Dated 30.11.1990]

Recommendation Serial No. 15

The Committee were surprised to learn from Air India that it does not have records relating to its activities for the years prior to 1980. Though Air India claimed that it usually keeps records for 10 years, it does not have records for the years 1978 and 1979 on its own admission. Moreover, since records are the memory of an organisation, the Committee desire that Air India in consultation with the Comptroller & Auditor General of India and Government, should redetermine the retention period of records with a view to preserving evidence of its internal and external transactions. According to Secretary, Civil Aviation, air India has destroyed even the documents pertaining to the extension of agreement with Pushpak Aviation in 1983. This is highly unsatisfactory and the Committee have been left with an uncomfortable feeling about these particular records not being found especially in view of the fact that production of these records would have shed proper light on the matter.

Reply of the Government

The record retention schedule of Air India is determined by the Corporation on their own and this Ministry has not given any directions on this matter.

[Ministry of Civil Aviation & Tourism O.M..No.AV. 14028/3/86-PIN.
Dated 13.12.1989.]

Vetting Remarks of Audit

The retention schedule is no doubt determined by air-India. However, in view of the recommendation of the Committee Air India in consultation with the administrative Ministry (and not the Comptroller & Auditor General of India) may like to review this schedule which may require revision from time to time based on experiences gained.

Reply of the Government

The record retention schedule, particularly of the commercial and accounts departments of Air India are being reviewed in the light of the recommendations of the COPU and the Audit.

[Ministry of Civil Aviation O.M. No.AV. 14028/3/86-AA Dated
30.11.1990.]

Further information called for by the Committee

[Ref. O.M.No. 11-2(1)-II-PU/89 dt. 23.11.90]

Pleased indicate the action taken by Air India on this recommendation.

Further reply of the Government

Air India have reviewed their record retention schedules in the light of the recommendations of the COPU, in consultation with the Ministry of Civil Aviation. It has been decided that henceforth all documents relating to operations by private operators in association with Air India would be preserved, permanently, both in the Accounts and Commercial departments.

[Ministry of Civil Aviation O.M..No.AV. 14028/3/86-AA Dated
13.12.1990.]

CHAPTER III

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

CHAPTER IV

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

Recommendation Serial No. 1

The Committee find that in 1974 Government in consultation with air India granted permission to a private operator Trans-Sharjah Airlines for carriage of meat from Bombay to Sharjah in view of shortage of capacity faced by Air India during the peak demand period. On the representation made by Trans-Sharjah Airlines that carrying cargo only resulted in a loss, Government agreed in February 1975 to the lifting of five passengers per flight subject to a maximum of 70 passengers per month ex-Sharjah. Subsequently, another private operator—Huns Air sought similar facility and Government agreed in June 1976 that a total of 170 passengers per month be shared by the two airlines. When Trans-Sharjah withdrew its operations in 1976, Huns Air was given the authority to carry 170 passengers per month. The Committee fail to understand why, in the first instance, the private operators were allowed to operate non-scheduled cargo flights throughout the year when the shortage of capacity faced by Air India had been only of occasional and uni-directional nature. The Committee would like to be apprised whether Government faced any difficulty in leasing or hiring cargo capacity from time to time depending upon the extent and duration of capacity requirements, as is done presently.

Reply of the Government

Bulk of the exports by air from India are items with low density and low intrinsic value like perishables, garments and leather. In-Bound cargo from destinations abroad is insignificant. It, therefore, makes cargo operations for Air India uneconomic. Even today, Air India is not able to provide the cargo capacity required by Indian exporters. Consequently, the Government had declared an open sky policy wherein scheduled and non-scheduled operators both Indian and foreign are allowed to operate any number of flights out of India. Initially, this policy was announced for peak season but had to be extended for the

full calendar year. Under the directions of the Board of Trade, Air India has agreed to increase its cargo capacity, but have asked for under-writing of their losses, which is under consideration.

[Ministry of Civil Aviation & Tourism, O.M. No. AV.14028/3/86-PIN

Dated 13.12.1989.]

Further information called for by the Committee

[Ref. O.M.No. 11/2(1)-II-PU-59 dt. 23.11.90.]

Please give specific reply as to whether Government faced any difficulty in leasing or hiring cargo capacity depending upon the extent and duration of capacity requirements when the private operators were granted permission in 1974 and 1976.

Further reply of the Government

It is submitted for the information of the Committee that in the absence of relevant records of the period, it is not possible to give a specific reply to this question. However, it may be stated that there was definitely a cargo capacity shortage, so far as Air India was concerned at that time.

[Ministry of Civil Aviation, O.M. No. AV.14028/3/86-AA;

Dated 13.12.90]

Comments of the Committee

The reply of the Government is not satisfactory. The Committee, therefore, reiterate that it should have been possible for the Government to lease or hire cargo capacity from time to time depending upon the extent and duration of capacity requirements, as is done presently.

Recommendation Serial No. 2

The 1978, another airline—Pushpak Aviation sought permission to operate cargo flights from Bombay to Sharjah and also to carry passengers. Air India opposed the proposal for carriage of passengers on the ground that it was already operating five flights a week to Dubai which is just 15 minutes' drive from Sharjah and that its return passenger load factor was only 65%. Besides, the private operators were charging only 50% of the normal fare which had an adverse impact on the traffic carried by Air India. The Committee are surprised to learn that in total disregard to the commercial interests of the Corporation, permission was granted to Pushpak Aviation to operate cargo flights and also to carry passengers. The Secretary, Civil Aviation was candid in his admission that this was done at the instance of the then Minister of Civil Aviation who "by his persuasive charms, managed to persuade Air India" to agree to the operation of Pushpak Aviation. The Committee cannot but express their displeasure on such interference in the working of the Corporation.

Reply of the Government

Owing to absence of cargo on return flights to India, Pushpak Aviation had initially sought clearance for carrying some passengers on the return flights. In International operations, an overall annual load factor of 65% is considered reasonably good. Since the private operators were flying a very inferior product in terms of aircraft service, frequency of service, they could not have charged normal fares. Such non-scheduled charter operations are not covered by IATA. It may also be mentioned that the private operators proposed to lift deck-class passengers. Sometimes, commercial interests have to subserve the needs of exports and tourism. The approval of mandatory freight rates for leather and perishables which are considerably lower than the existing IATA rates, is one such example. Similarly, under the tourist charter guidelines, charter operators are permitted to bring foreign tourists into India during the tourist season.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028/3/86-PIN
Dated 13.12.1989.]

Further information called for by the Committee

[Ref. O.M. No. 11/2(1)-II-PU-59 dt. 23.11.90.]

Please indicate how granting of permission to Pushpak Aviation in 1978 was prompted by the needs of exports on tourism. The reply may be supported by statistical data in this regard.

Further reply of the Government

The reply of the Government was of the nature of a general statement indicating that the considerations before the Government in taking decisions are larger and different from those of Air India. The reason for permitting the operations of Pushpak have already been indicated in the earlier reply.

[Ministry of Civil Aviation, O.M. No. AV.14028/3/86-AA
Dated 13.12.90.]

Comments of the Committee

Please see paragraph 7 of Chapter I of the report.

Recommendation Serial No. 3

The Committee find that the number of passengers authorised to be lifted Ex-Sharjah by the private operators increased progressively from time to time on the plea of increase in cost of operations. In the case of Pushpak Aviation the quota per month was increased from 200 in April 1979 to 350 in February 1980 and to 500 in April 1980. In the case of Huns Air, the number was increased from 170 in June 1976 to 400 in January 1980. The Committee are shocked to note that progressive increase in the authorisation was granted to private operators at the cost

of Air India. Rather the private airlines should have been asked to raise the fare which was reported to be 50% less than the normal fare charged by Air India.

Reply of the Government

The Pushpak Aviation was flying an old Caravelle Aircraft while Huns Air was flying piston engine still older Viscount aircraft. They also planned to lift deckclass passengers. Therefore, on account of unattractive equipment, infrequent flights, class of passengers to be served etc. they offered a much inferior product and had to charge a lower fare.

[Ministry of Civil Aviation & Tourism, O.M. No.AV. 14028/3/86-PIN
Dated 13.12.1989]

Comments of the Committee

Please see paragraph 7 of Chapter I of the report.

Recommendation Serial No. 4

The one and only reason for granting traffic rights to private airlines was to uplift the perishable cargo from Bombay to Sharjah on account of inadequacy of Air India's cargo capacity. When there was permanent decline in demand for cargo capacity consequent on the ban on meat export in April, 1980, what one would have expected of Government is to withdraw the traffic rights granted to private airlines. Regretably this was not done. Instead Pushpak Aviation was also permitted to carry 500 passengers per month from Bombay to Sharjah to compensate the loss of cargo load. The reason for taking such a strange decision are inexplicable.

Reply of the Government

It would have been undesirable to withdraw the carriage rights in view of the fact that there was heavy demand for other perishables, such as vegetables, fruits and mangoes. It may also be mentioned that the company had incurred a lot of expenditure to keep its aircraft idle, like salaries to the staff, maintenance, rent for the hanger etc. Also in order to maintain its operations it has to make various arrangements with the concerned aviation authorities, sales agents etc. As such it would not be practicable to give permission on a short-term basis. Similarly, it would not have been desirable to withdraw the permission merely because the export of meat had been banned temporarily.

[Ministry of Civil Aviation & Tourism, O.M.No.AV.14028/3/86-PIN
Dated 13.12.1989]

Further information called for by the Committee

[Ref. O.M.No.11/2(1)-II-PU/89 dt. 23.11.90.]

If this was indeed the case, please state what was the rationale for Pushpak Aviation being permitted carriage of additional number of

passengers on the pretext of decline in cargo traffic due to ban on meat export.

Further reply of the Government

It was anticipated that the ban on meat export would be temporary and keeping in view the heavy investment made, private operators were allowed to carry passengers, in addition to export of other perishable cargo, to tide over a period of fall in demand for reasons beyond their control.

[Ministry of Civil Aviation, O.M. No. AV.14028/3/86-AA
Dated 13.12.1990.]

Comments of the Committee

Please see paragraph 7 of Chapter I of the report.

Recommendation Serial No. 6

What is more distressing to the Committee is when one considers how the provision of the Air Corporation's Act was flagrantly misused in order to benefit the private operators. Under the Air Corporation's Act it is unlawful for any one other than the Corporation or its associates to operate any scheduled air transport service which is provided by the Corporation. As such after Air India commenced direct flights to Sharjah in March, 1981, it was not legal to allow the private airlines to continue their operations to Sharjah. In order to circumvent this legal obstacle, Air India with the prior approval of Government, entered into an agreement with Pushpak Aviation and Huns Air under Section 7 (2) (h) of the Act to operate as associates of Air India for a period of two years from 10.3.1981 in the case of the former and from 1.5.1981 in the case of the latter. Evidently, the justification and implications of entering into associateship agreement with the private airlines were neither examined by Air India nor by Government. As a result the Associateship status granted to the private operators to operate international scheduled services not only syphoned away Air India's legitimate traffic and revenue as brought out in succeeding paragraphs but also resulted in much wide repercussions to the detriment of the country's Aviation policies and objectives. In effect a situation had been created wherein international air services had been denationalised through back door without a conscious decision of the Government.

Reply of the Government

Both operators Pushpak Aviation and Huns Air were Indian non-scheduled operators which operated old aircrafts taken from Indian Airlines. Having purchased the aircraft from Indian Airlines it is only natural that these operators would like to put these aircraft into use. Maintenance of these aircrafts involves heavy overheads. It cannot be said that there is any thing wrong, in case the Government decides to utilise this capacity for promotion of exports. Whether to allow on

exclusive right to the nationalised airlines or to allow private airlines also into the field is a legitimate policy question in which the Government can take a decision. The Government has to balance the commercial interests with overall national interest like optimum utilisation of its resources for export promotion etc. It may be mentioned that very rigid policy on the part of Government would only discourage the private sector from entering into Civil Aviation field especially during the present times when important committees like the National Committee on Tourism and Working Group on 8th Plan have found that the National Carriers would not be able to generate enough resources to acquire the required capacity and have recommended partial privatisation. It may also be mentioned that the Government has already announced the Air Taxi Scheme where operators including those in the private sector would be able to operate Air Taxis between approved domestic airports to supplement the efforts of national carriers.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028/3/86-PIN;
dated 13.12.89]

Vetting Remarks of Audit

There is no specific provision in Air Corporations Act, 1953 which permits Government to take such a policy decision. Government have not categorically brought out whether the justification and implications of entering into associate agreements with the private airlines were examined by Air India or Government.

Reply of the Government

As already indicated in the reply of this Ministry, the private operators were given associate status in consultation with Air India. This decision was taken after examining all the implications.

[Ministry of Civil Aviation O.M. No. AV. 14028/3/86-AA; dated
30.11.1990]

Further information called for by the Committee

[Ref. O.M. No. 11/2(1)-II-PU/89; dt. 23.10.1990]

Attention is invited in this connection to Section 18 of the Air Corporations Act which prohibits operation of any scheduled air transport service by any person other than the Air Corporations. The Ministry of Civil Aviation are, therefore, requested to clarify whether the decision to operate air taxi scheme was in accordance with the provisions of the Air Corporations Act and if so, please cite the relevant provisions in the Act which permitted such operations.

Further reply of the Government

Air Taxi Operations, at present, undertake non-scheduled operations and therefore the provisions of Section 18 of the Air Corporations Act are not attracted.

[Ministry of Civil Aviation O.M. No. AV. 14028/3/86-AA; dated 7.1.1991]

Comments of the Committee

Please see paragraphs 11 and 12 of Chapter I of the report.

Recommendation Serial No. 7

The Committee find that in January 1981 Air India had taken a stand that once Air India commences operations to Sharjah, Huns Air and Pushpak Aviation should not be permitted to carry passengers as it would be detrimental to Air India's commercial interests. Subsequently, on a proposal made by Air India for permitting Pushpak Aviation to continue their operations, there were deliberations by the officials within the Ministry and also with the officials of Air India at the instance of the then Minister of Civil Aviation. This was followed by a letter from Air India on 5.3.1981 seeking prior approval of the Government to enter into an agreement with Pushpak Aviation. All this requires thorough investigation for ascertaining the role played by those responsible for this episode.

Reply of the Government

Air India had initially expressed reservations about the operations of Huns Air and Pushpak Aviation but had later-on sought clearance for associateship status under Section 7(2) (h) of the Air Corporations Act. There does not appear to be any evidence on record to establish use of unfair means to influence such a decision. Since none of the functionaries are in service anywhere, it is felt that no purpose might be served by an enquiry at this stage.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028/3/86-PIN; dated 13.12.89]

Comments of the Committee

Please see paragraph 15 of Chapter I of the report.

Recommendation Serial No. 10

The startling disclosures in the foregoing paragraphs indicate the need for a thorough probe into the whole episode starting with the issue of granting traffic rights to Pushpak Aviation in 1978 and ending with the joint operation of Air India with the private airlines from 1981 to 1983. The Committee regret to learn from the Civil Aviation Secretary that no investigation was conducted into the matter despite obvious improprieties and doubtful conduct by those in power at that time in the Ministry of

Civil Aviation as well as in Air India. The Committee desire that the whole case should be referred to CBI for a probe with a view to finding out who were responsible at various stages in the episode and the extent of the role played by them. The Committee would like to be informed of the outcome of the probe and the action taken against those found guilty.

Reply of the Government

Permission granted to the private operators could very well have been due to a genuine desire for utilisation of the capacity available with them for export promotion. Considering that acquisition of aircraft capacity is a costly affair and there is persistent shortage of funds with the national carriers, such a policy does not appear to be entirely out of place. Considering the fact that there is very little in the records to prove otherwise and many of the officers who were in the Ministry of Civil Aviation are no more in service, an enquiry will serve very little purpose at this stage. On the contrary, constitution of a CBI Enquiry at this stage may only frighten away prospective private sector entrepreneurs from entering into the field of Civil Aviation. Officers dealing with such proposals may also be reluctant to take decisions for fear of enquiries.

[Ministry of Civil Aviation & Tourism O.M. No. AV. 14028/3/86-PIN;
dated 13.12.89]

Comments of the Committee

Please see paragraph 15 of Chapter I of the report.

CHAPTER V

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

-NIL-

NEW DELHI;

8 March, 1991

17 Phalguna, 1912 (Saka)

BASUDEB ACHARIA,
Chairman,

Committee on Public Undertakings.

APPENDIX I

Minutes of the 35th sitting of the Committee on Public Undertakings held on 6th March, 1991.

The Committee sat from 15.30 hrs. to 17.30 hrs.

PRESENT

Shri Basudeb Acharia - *Chairman.*

MEMBERS

2. Shri Manoranjan Bhakta
3. Dr. A.K. Patel
4. Shri Piyus Tiraky
5. Shri Yuvraj
6. Smt. Renuka Chowdhury
7. Shri Dipen Ghosh
8. Shri Mohinder Singh Lather

SECRETARIAT

1. Shri S.C. Gupta - *Joint Secretary*
2. Shri K.K. Sharma - *Director*
3. Smt. P.K. Sandhu - *Under Secretary*

The Committee took evidence of the representatives of the Ministry of Energy (Department of Coal) in connection with examination of Coal India Limited.

*** *** ***

The Committee thereafter considered and adopted the following draft Reports subject to the amendment shown in the Annexure:

*** *** ***

- (ii) Draft report on Action Taken by Government on the recommendations contained in the 58th report of Committee on Public Undertakings 1988-89) on Air India—Undue benefit to private operators.

The Committee authorised the Chairman to finalise the reports on the basis of factual verification by the Ministries/Undertakings concerned and Audit and to present the same to Parliament.

The Committee then adjourned.

*** Minutes relating to the evidence of the representatives of Department of Coal in connection with examination of Coal India Limited have been kept separately.

ANNEXURE

Amendment made in draft Action Taken Report on Air India—Undue benefit to private operators.

The last sentence in para 12 of chapter I “They therefore recommendsuitably” may be substituted by the following sentence:

“The Committee, therefore, are of the view that the air taxi operations are not covered by the Air Corporations Act and the matter needs to be examined further in the light of the provisions of the Air Corporations Act.”

APPENDIX II

(*Vide* Para 3 of the Introduction)

Analysis of the Action Taken by the Government on the recommendations contained in the 58th Report of the Committee on Public Undertakings (Eighth Lok Sabha)

I.	Total number of recommendations	15
II.	Recommendations that have been accepted by the Government (<i>Vide</i> recommendations at Sl. Nos. 5,8,9 and 11 to 15)	8
	Percentage to total	53%
III.	Recommendations which the Committee do not desire to pursue in view of the Government's replies	NIL
IV.	Recommendations in respect of which replies of the Government have not been accepted by the Committee (<i>Vide</i> recommendations at Sl. Nos. 1,2,3,4,6,7 and	7
	Percentage to total	47%
V.	Recommendations in respect of which final replies of the Government are still awaited	NIL