

PUBLIC ACCOUNTS COMMITTEE
(1974-75)

(FIFTH LOK SABHA)

HUNDRED AND SIXTY FIFTH REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 127th Report (Fifth Lok Sabha) on paragraphs 42 & 43 relating to Installation of Computers on Railways included in the Report of the Comptroller & Auditor General of India for the year 1971-72—Union Government (Railways)]



LOK SABHA SECRETARIAT
NEW DELHI

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OF THE P. A. C. (5TH LOK SABHA) PRESENTED TO LOK
SABHA ON 5.5.1975.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
4	1.6	7-8	Delete the words "the unavoidable liability on the Railways to pay dividend"	
8	1.10	4	Add the words "notice has been served on the I.B.M. for return of the" between the words "A" and "Mughalsarai".	
9.	1.14	39	"L"	"I"
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PUBLIC ACCOUNTS COMMITTEE (1974-75)

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Shri B. K. Mukherjee—*Chief Legislative Committee Officer.*

Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, having been authorised by the Committee, do present on their behalf this Hundred and Sixty-Fifth Report of the Public Accounts Committee on Action Taken by the Government on the recommendations contained in their 127th Report (Fifth Lok Sabha) on paragraphs 42 and 43 relating to installation of computers on Railways included in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Railways).

2. On the 31st May, 1974 an 'Action Taken Sub-Committee' was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following members:—

Shri H. M. Patel—*Convener*

MEMBERS

2. Shri Sasankasekhar Sanyal
3. Shri Jagannathrao Joshi
4. Shri S. C. Besra
5. Shri V. B. Raju
6. Shri Mohammed Usman Arif
7. Shri P. Antony Reddi
8. Shri Narain Chand Parashar
9. Shri T. N. Singh

3. The Action Taken Sub-Committee of the Public Accounts Committee (1974-75) considered and adopted this Report at their sitting held on 25th April, 1975. The report was finally adopted by the Public Accounts Committee on 30th April, 1975.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report.

(vi)

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

NEW DELHI;

30th April, 1975.

10th Vaisakha, 1897 (S) .

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

CHAPTER I

Report

1.1. This Report of the Committee deals with action taken by Government on the recommendations contained in their 127th Report (Fifth Lok Sabha) on paragraphs 42 and 43 relating to installation of computers on Railways included in the Report of the Comptroller and Auditor General of India for the year 1971-72—Union Government (Railways). Action Taken Notes have been received in respect of all the 14 recommendations contained in the Report.

1.2. The Action Taken Notes on the recommendations of the Committee have been categorised under the following heads:—

- (i) Recommendations/observations that have been accepted by Government.
S. Nos: 1—3, 4, 5, 6, 7, 10, 12.
- (ii) Recommendations observations which the Committee may not desire to pursue in the light of the replies of Government.
S. Nos. 8, 9, 11.
- (iii) Recommendations observations replies to which have not been accepted by the Committee and which require reiteration.
S. No. Nil.
- (iv) Recommendations/observations in respect of which Government have furnished interim replies.
S. Nos. 13 and 14.

1.3. The Committee hope that final replies in regard to recommendations to which only interim replies have so far been furnished will be submitted to them expeditiously after getting them vetted by Audit.

1.4. The Committee will now deal with the action taken on some of the recommendations.

Installation of Computers on the Indian Railways (Paragraph 1.38—S. No. 1).

1.5. Commenting on the installation on Railways of 14 computers hired from the I.B.M. during the period 1966 to 1970, the Committee had in paragraph 1.38 observed:

- “(a) The Committee note that 14 computers have been hired from the I.B.M. and installed without any thorough job analysis on the Railways over the period 1966 to 1970.
- (b) Before taking a decision in the matter, it was considered that it would be economical to hire the computers rather than purchasing them on the basis that the life of a computer was 5 years. However, as the Railways are using the computers for over 8 years now, it was not wise to have hired them if they were needed at all.
- (c) The Railway Board have now given a calculation seeking to make out that hire is cheaper than outright purchase till the thirteenth year. According to these calculations, cumulative disgusted value of purchase in the thirteenth year will be Rs. 55.59 lakhs whereas the value of hiring will be Rs. 55.49 lakhs. The Committee, however, find that a sum of Rs. 27.49 lakhs payable as dividend to General Revenues has been taken into account while arriving at the value of purchase. In their view, it was not correct to take this element into account. Further the value of hiring has been comuted on the basis that the computers will be used to the extent of 176 meter hours per month. As the computers are said to be capable of processing programmes so as to achieve a level of utilisation of 400 meter hours per month of the central processor, rent for two shifts should have been proved. Thus, the calculations suffered from over-valuation of the purchase and under-valuation of hire.

Prima facie it appears hiring of computers beyond five years is uneconomical. The Committee would not be unjustified to think that it is a case of manipulation.

In any case the justification now given seems to be an after-thought.”

1.6. In their reply dated 2-9-74, the Ministry of Railways (Railway Board) have stated:—

“Para 1.38

- (a) The need for a computer in C.L.W. was accepted by the Central Statistical Organisation (Cabinet Secretariat) after

a thorough assessment of the work load before it was installed. The requirement of the other production Units was also similar.

The mechanisation of accounting on the railways started with the introduction of Unit Record Machines in 1963. The circumstances in which these Unit Record Machines were introduced and later replaced by computers has been explained in the Finance Ministry's reply to PAC's point No. 11. Further it may be mentioned here that the operational justification for installation of the Unit Record Machines was accepted by the Finance Ministry after a thorough review before approving the financing arrangements for their installation. The computers were installed subsequently not only to do the work already done by the Unit Record Machines but also to do such other work as inventory control, pay-roll etc., which the Unit Record Machines were not capable of. In these circumstances, a further job analysis as such at the stage of installation of computers on open line railways was not specifically carried out. It is also brought to the notice of the Committee that the computers are being fully utilised, except the one in North East Frontier Railway where the utilisation is low for reasons not entirely connected with the volume of work.

- (b) As observed by the Public Accounts Committee, the decision to hire instead of purchase the computers was based on the consideration that, for an economic life of 5 years, it would be cheaper to hire the machines. That these computers would continue to be used for 8 years or more, was not envisaged at the time of installation. In fact, a provisional letter of intent for procurement of two 3rd generation computers was placed on the I.B.M. in 1969. This did not materialise as the Government did not grant them the necessary licence. Had the 3rd generation computers become indigenously available, it is possible that the more versatile and sophisticated 3rd generation machines would have been brought into use, at least, at major installation sites.
- (c) It is noted that the P.A.C. do not favour estimated dividend to General Revenue amounting to Rs. 27.49 lakhs being taken into account in assessing the economics of purchase Vs. hire. It is respectfully stated that there is a

distinct economic difference between the alternatives of buying the computers against hiring them one factor of such difference being represented by the amount of dividend payable to general revenues on the cost of the machines if purchased. In the case of purchase, there is an unavoidable liability on the Railways to pay dividend to the unavavoidable liability on the Railways to pay dividend to the General Exchequer whereas when the machines are hired there is no addition to the capital at-charge on which the Railways have to pay a dividend. In considering such alternatives it is not incorrect to include interest on capital as an item of cashflow and it was for this reason that dividend payable to the Central Exchequer was taken into account in estimating the outflow of cash for the purchase scheme.

The point made by P.A.C. that rent for two shifts should have been taken into account in making the comparative assessment between purchase and Rental Plans, is accepted. Likewise, however, the additional incidence of maintenance expense for two shift working has to be taken in the purchase plan.

In compliance with the P.A.C.'s wishes, revised purchase and rental plan calculations have been made, excluding the element of dividend and taking into account two shifts working (Statements enclosed—Annexures 'A' and 'B'). These calculations show that rental is more advantageous than purchase upto the 7th year for the factors explained in para 1 above. If, however, the plan, the total being discounted at 4 per cent interest (10 per cent normal discount rate less 6 per cent dividend added to the cash flow), the rental plan works out more advantageous upto the end of the 8th year (statement enclosed—Annexure AA and BB).

It would be seen that even in respect of the 1st computer installed on the Railway at C.L.W. on 1-8-66, the period during which the purchase plan can be considered to have an edge over the rental plan has only just commenced. The other computers on Railways were installed on various dates between November, 1966 and January, 1970 and in these cases; the rental plan has been advantageous to the Railways so far.

However, the Railway Board have initiated a dialogue with the I.B.M. to explore the possibility of revision of the current contracts with a view to obtaining terms more favourable to Railways."

1.7. The Committee note that the installation of a computer in the Chittaranjan Locomotive Works followed a thorough assessment of the workload by the Central Statistical Organisation and that the requirements of the other production units were also similar. However, no job analysis as such was specifically carried out before the installation of computers on the open line railways. The Committee cannot but express surprise at the Railways' failure properly to establish the need for a system before accepting it, since it involved a liability of several lakhs of rupees.

1.8. The Committee note further that the Railway Board have initiated a dialogue with the IBM with a view to exploring the possibility of revision of the current contracts with a view to obtaining terms more favourable to Railways. The Committee would like to emphasise that in the light of the critical analysis made by them in their 127th Report, the Railway Board, while negotiating with IBM will do its best to ensure that a satisfactory new contract emerges as a result.

Utilisation of Computers (Paragraph 1.66—S. No. 6)

1.9. While dealing with the utilisation of computers on the Railways, the Committee had in paragraph 1.66 observed:

"Para 1.66

- (a) The Committee regret that the utilisation of the computers which cost the Railways so very dearly, is absolutely poor.
- (b) It seems that the computers were hired without any thorough job analysis and assessment of work load.
- (c) And later, it is seen utilisation in the really wanted sectors (like inventory control) is next to nothing.
- (d) The computers are capable of processing programmes so as to achieve level of utilisation of about 400 meter hours per month of the central processor.

- (e) There was no uniformity on the applications taken over on computers by different Railways even though Railway Board had laid down the procedures for development by each Railway, of some programmes and their adoption on other. Railways for utilisation of computers. And the Railway Board took no pains to ensure proper implementation.
- (f) The actual utilisation has not been upto the capacity in all the cases except one as in March, 73. In 7 cases, the utilisation was particularly poor and it ranged only between 123 and 279 meter hours. The monthly rental was based on the use of Central Processing Unit for 176 meter hours per month beyond which additional time was billed at 30 per cent of the hourly rate derived from the monthly rental. This concession, has therefore not been availed of fully.
- (g) What is more serious is that in 2 cases, the utilisation is less than the minimum on the basis of which full rent is paid. All this points to the need to maximise the utilisation.
- (h) In doing so, care should be taken in future to see that only such of those items as really cannot be done manually are computerised. Further it should be done with due regard to the impact of computers on the existing employees, and their promotional avenues as also on future employment, recruitment opportunities from the long range point of view. And this should not be allowed to destroy job opportunities."

1.10. In their reply dated 2.9.74, the Ministry of Railways (Railway Board) have stated:

"Para 1.66

- (a) The utilisation of computers on the Indian Railways is well above the all-India average, being 278 meter hours in July, 1973 against the all-India average of 237.6 hours. The attention of the Committee is also drawn to the official report of a work study team on automation (Office automation) appointed by the Government of Maharashtra that "on All India Level, the most impressive use of computers (In private and Public Sector) in all India, is to be found in the integrated operation of the 14

computers controlled by the Railway Board in New Delhi." It is, therefore, submitted that the utilisation of computers on the Indian Railways has been of a high order.

- (b) Please see remarks against item 1.38 (a) above.
- (c) A statement of utilisation of computers for different applications on Indian Railways is attached (Annexure 'D'). It would be seen that the maximum percentage (20.60 per cent) of utilisation is on inventory control. The machine utilisation for this application will go up further with the implementation of 3rd and 4th phase of the system.
- (d) No comments.
- (e) It would be seen from the attached statement (Annexure 'D') submitted in reply to item 1.66(c) that about 75 per cent of the computers utilisation on zonal railways is accounted for by uniform applications with common programmes; a further 11 per cent is accounted for under uniform applications with differences in programmes to suit local requirements. Thus as much as about 86 per cent of the utilisation is in respect of uniform applications. This will show that commendable effort has been made to achieve uniformity in proper implementation of jobs on the computers.
- (f) The present utilisation of the computers being at the level of the optimum requirements in terms of the workload offering at the various E.D.P. Centres, the question of gain or loss in using extra computer hours at concessional rates does not arise. The value of underutilisation is merely notional and cannot be termed as a loss just as utilisation of computers at the concessional rate available beyond 176 hours cannot be said to be a gain. Incidentally, the Railways have been making efforts to offer spare computers time to Government and non-Government agencies wherever demand exists. During the last 4-5 years a sum of about Rs. 36 lakhs has thus been realised.
- (g) The two cases referred to are Mughalsarai and N.F. Railway Computers.

As regards Mughalsarai Computer it has been decided after a review of the workload etc. to transfer the work to the D.L.W. Computer, which incidentally has some spare capacity. A Mughalsarai Computer from 1st October, 1974.

Regarding the N.F. Railway Computer, it is submitted that due to a serious confrontation with the labour over the installation of the computer. Railway had to go slow with the extension of computer application. This together with the comparatively small number of transactions on that Railway explains the low utilisation of the computer.

(h) Noted".

1.11. The Committee note that it has been decided, after a review of the workload etc., to transfer the work of the Mughal-Sarai computer to the computer at the Diesel Locomotive Works which is stated to have some spare capacity, and that notice has been served on the I.B.M for the return of the Mughal Sarai computer from 1st October, 1974. In regard to the Northeast Frontier Railway computer, it has been stated that due to serious confrontation with labour, the Railway had to go with the extension of computer application. The low utilisation of this computer is also attributable to a comparatively small number of transactions on that Railway. Further the Railways have been making efforts to offer spare computer time to Government and non-Government agencies wherever demand exists. These explanations given by the Railway Board only reinforce the Committee's conclusion that the installation of computers was not preceded by a careful study of the need for going in for them. The Committee desire that the Railway Board should make a fresh re-appraisal of their requirements of the computers to find out if any of these costly machines could be spared without serious repercussions on the working of the Railway concerned. Indeed as the machines constitute a sizeable capital and running expenditure the Railway Board should undertake a regular and frequent review to satisfy itself that the advantages that accrue are commensurate with the expenditure involved.

Procurement of Disc Packs for computers at high rates (Paragraph 1.105—S. No. 13). ..

1.12. In paragraph 1.105 the Committee had made the following observations:

"The Committee learn that the Department of Electronics have constituted an Inter-Ministerial Working Group in

July, 1973 to go into the reasonableness of prices charged by this firm (after 1st January, 1969) and other connected matters. The Committee should be kept informed of the outcome of the study by this Working Group which should be asked to complete it within three months."

1.13. In their reply dated 13th December, 1974 the Department of Electronics stated:

"The Inter-Ministerial Committee set up in June, 1973, to investigate into the cost aspects of I.B.M. as well as I.C.L. (International Computers Ltd.) has submitted an interim report on 31st July, 1974. A copy of the interim report is herewith forwarded for your information.

On the basis of the analysis of the financial statements of I.B.M. and I.C.L., the Committee has come to the conclusion that there would be a case for reduction of prices of equipments supplied by these companies. A detailed examination into the cost structure would be necessary to determine the quantum of reduction in prices that should be effective.

The Ministry of Law has been consulted and based on their advice, the Ministry of Industrial Development have been requested to give necessary clearance for implementing the provisions of Section 15 and 19 of the Industries (Development and Regulations) Act, 1951. Section 15 will empower investigation into the rise in the price of an article of manufacture and ordering regulation of such prices. Section 19 would enable ordering production of document or examination of persons to ascertain facts pertaining to the prices of items of manufacture. On receipt of such clearance, further necessary action will be taken. It is expected that the analysis would be completed by March, 1975."

1.14. The Committee had desired to be informed of the outcome of the study made by the Inter-Ministerial Working Group which had been constituted to go into the reasonableness of prices charged by I.B.M. for its manufactures. It has been stated by the Department of Electronics that the Working Group had submitted an interim report. On the basis of the analysis of the Financial Statements of I.B.M. and L.C.L., the Working Group has come to the conclusion

that there would be a case for reduction of prices of equipments supplied by these companies and that a detailed examination of the cost structure would be necessary to determine the quantum of reduction in prices that should be effective. This examination was likely to be completed by March, 1975. The Committee suggest that the Working Group should make a thorough analysis of the working of these companies and try to expose all the machinations employed by these companies so that in future the users are not made to pay unwarranted prices for the services rendered and machinery supplied by these companies.

(Paragraph 1.106—S. No. 14)

1.15. In paragraph 1.106, the Committee had made the following observations:

“The Committee’s examination of the purchase/hire of machinery and equipments from this firm has brought out wider ramifications requiring an immediate and a detailed probe. Such transactions with this firm were not confined to Railways alone. A number of other Departments of Government had also entered into business deals this firm. Normal procedures of purchases did not appear to have been followed. There had been several lapses and irregularities in the transactions. The firm had been imposing its own terms and conditions on the Government. The purchase price or the rental, as the case may be, had been expressed in terms of dollars and the rupee equivalent as on that date of payment had to be paid presumably even in the case of indigenous manufactures and the machinery imported prior to devaluation of the rupee. This had the effect of considerably enhancing the liability for payment after the devaluation in June, 1966. Further, it appeared that the firm could and did in fact unilaterally raise the price/hire charges in terms of the agreement and that the Government accepted it without any questioning. The implications of declaring a low value to the Customs as also the reasonableness of price/rental charges required to be gone into keeping in view particularly movement of foreign exchange and the Income-tax liability of the firm. Incidentally the real need for computers, the economies of hire *vis-a-vis* purchase, the actual need based utilisation and the results achieved also required critical examination. The Committee accordingly decided to go into the matter

fully. As the matter concerned various Ministries|Departments, a detailed questionnaire as at Appendix IV, was sent in December, 1973 to the Ministry of Finance to collect, consolidate and furnish the required back ground information to enable the Committee to have an examination covering all aspects of the deals with this firm and other similar firms. Very unfortunately the Committee have not received the requisite information so far (April, 1974) inspite of repeated reminders and close persuasion. This is regrettable. The Committee have, therefore, reluctantly to defer the fuller examination of the matter. They expect that the Ministry of Finance will not delay the information any further and the outcome of the study undertaken by the Inter-Ministerial Working Group should also be reported to them without any further delay. The Committee are anxious that this question in relation to which very significant information has come to their notice at least from the Railways, should be seriously pursued at the earliest opportunity."

1.16. In their reply dated 23rd October, 1974, the Ministry of Finance (Department of Expenditure) have stated:

"Information received from 22 Ministries/Departments of the Government of India on the various points listed in Appendix IV to the above mentioned Report was furnished to the Public Accounts Committee with the Department of Expenditure O.M. No. 12(55-E(Coord)/73 dated the June, 1974. Since complete information points 7, 8, 9, 10 and 12 had not been furnished by the Ministries/Departments, the Central Board of Excise and Customs Central Board of Direct Taxes, Department of Economic Affairs, Company Law and Department of Electronics etc. were addressed, as suggested by the Lok Sabha Sectt. in their U.O. No. 2|4|2(1)|73 PAC dated the 22nd July, 1974. The Committee also desired to have information in respect of the following two additional points;

- (i) (a) Please state whether the workload and the purpose for which computers or other electronic data processing accounting machines were purchased were determined.
- (b) If so, please give details thereof?
- (c) if not, the reasons therefor?

- (ii) (a) Please give details of the savings in wages effected as a result of the acquisition of these machines by the Govt. Departments.
- (b) What are the other advantages, if any, accrued as a result of installation of such machines?
- (c) Please also indicate the actual location of the machines.

The position with regard to the steps taken and the progress made in the collection of the information was intimated to the Lok Sabha Sectt. in the Department of Expenditure U.O. No. F12(55)-E (Coord)/73 dated 9th August, 1974.

Subsequently with reference to point No. 12 of the initial list of points and para 3(v) of the above mentioned U.O. note of the Lok Sabha Sectt., copies of the confidential interim report submitted by the Interministerial Working Group set up by the Department of Electronics were also forwarded to the Lok Sabha Secretariat with the Department of Expenditure U.O. No. F. 12(55)-E(Coord) | 73 dated 17th August, 1974.

The matter is being pursued vigorously with the Ministries/ Departments and other organisations concerned and the information asked for by the P.A.C. will be furnished as expeditiously as possible."

4.17. After examining the installation and utilisation of 14 computers on the Indian Railways the Committee had felt that there was need for a wider probe into the functioning of the IBM and ICL companies who had almost a monopoly in the matter of supply of electronic equipments. The utilisation of the electronic data processing machines hired or purchased by various Government Departments also called for a deep study to judge how far the benefit derived out of these machines was commensurate with the expenditure incurred. The Committee had accordingly desired that the Ministry of Finance should collect and furnish to the Committee detailed information concerning the installation and utilisation of those machines in various Government Offices. Although the Ministry of Finance were requested to collect the requisite information in December 1973, complete and upto date information has not been made available to the Committee till today despite protracted correspondence between the Lok Sabha Secretariat and the Ministry of Finance. The Committee take a serious view of

the Ministry's failure to collect and furnish the information called for. Keeping in view the wider ramifications of the purchase or hire of computers etc. from these companies and the unsatisfactory utilisation of these machines as has been revealed by a study of the Railways' computerisation projects, the Committee desire that the Ministry of Finance should immediately set up a committee of experts to examine how far the Government Departments which have incurred huge expenditure on acquiring these costly machines have been able to put them to worthwhile and adequate use.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

Para 1.38

(a) The Committee note that 14 computers have been hired from the I.B.M. and installed without any thorough job analysis on the Railways over the period 1966 to 1970.

(b) Before taking a decision in the matter, it was considered that it would be economical to hire the computers rather than purchasing them on the basis that the life of a computer was 5 years. However, as the Railways are using the computers for over 8 years now, it was not wise to have hired them if they were needed at all.

(c) The Railway Board have now given a calculation seeking to make out that hire is cheaper than outright purchase till the thirteenth year. According to these calculations, cumulative discounted value of purchase in the thirteenth year will be Rs. 55.59 lakhs whereas the value of hiring will be Rs. 55.49 lakhs. The Committee, however, find that a sum of Rs. 27.49 lakhs payable as dividend to General Revenues has been taken into account while arriving at the value of purchase. In their view, it was not correct to take this element into account. Further, the value of hiring has been computed on the basis that the computers will be used to the extent of 176 meter hours per month. As the computers are said to be capable of processing programmes so as to achieve a level of utilisation of 400 meter hours per month of the central processor, rent for two shifts should have been provided. Thus, the calculations suffered from over-valuation of the purchase and under-valuation of hire.

Prima facie it appears hiring of computers beyond five years is uneconomical. The Committee would not be unjustified to think that it is a case of manipulation.

In any case the justification now given seems to be an after-thought.

Para 1.39

(a) Although the Chittaranjan Locomotive Works initially proposed to the Railway Board that the computer might be taken on hire for two years (the usual way to make a beginning) with an option clause for outright purchase, all the 14 computers were taken on rental basis and in none of these cases such a provision was made. It seems obvious that the Railways were dealing with a very powerful multinational corporation which dictated its terms. This is a very serious matter because this certainly makes room for a suspicion that somebody in the Railway Board was perhaps friendly with computers suppliers and this may be an outcome of a conspiracy.

(b) Further the basis on which rental for computers were fixed by the firm concerned is stated to be not available with the Railway Board.

(c) It is strange that even now the Railway Board do not know the value of the computers as declared by the firm to the Customs authorities at the time of importation.

(d) It is also peculiar that all the computers hired by the Railways were reconditioned ones. The Committee are constrained to express a suspicion that a fraud has been perpetrated on public funds.

Para 1.40

(a) Certain equipments obtained in 1964 from the same firm along with the Unit Record Equipment and Accounting Machines on rental basis were retained as ancillary equipments to the computers. Continued hiring of these equipments meant an additional expenditure of Rs. 11.73 lakhs upto the end of June, 1972 over what would have been paid had they been purchased ab-initio.

(b) Further it is interesting to find that the CIF cost of these equipments was declared as Rs. 6.14 lakhs by the firm and the hire charges paid upto June, 1972 worked out to Rs. 50.17 lakhs.

(c) Surprisingly, the hire charges were expressed in terms of Dollars although the firm was operating in India and the payment in terms of Rupees went up after devaluation in June, 1966 to the great advantage of the Co. and to the serious disadvantage of the Exchequer. But for the devaluation the total hire charges would have worked out to Rs. 34.60 lakhs only.

Para 1.41

(a) Before installing the computers, the Railways had hired Unit Record Equipments and Accounting Machines from the same firm. In this case also, the rent was expressed in terms of Dollars and the payment was to be made in Indian Rupees at the Official Exchange Bank selling rate at the time of payment. The additional amount paid on account of devaluation in respect of these machines was about Rs. 18.97 lakhs for the period from July, 1966 to December, 1967.

(b) With effect from January, 1968, the rental charges were quoted in terms of rupees. It is, however not even clear whether there was any increase in the rental charges w.e.f. January, 1968. These are mysterious things. The Committee have not been given any justification for the increase after devaluation although the machines were imported long before devaluation.

Para 1.42

In view of the foregoing, the Committee hold that hiring of the computers and other equipments were wholly unjustified and motivated and the terms and conditions under which they were hired were absolutely one-sided. In fact, it seems that it was done to benefit the multi-national corporations. They are positive that all the details were not carefully worked out and the interests of the Govt. were trampled by entering into such commitments. It is now absolutely necessary that it should be examined how the railways entered into such dubious transactions with this firm and that on the basis of the findings appropriate action should be taken against all the persons involved. This is a unique business deal where the supplier dictates for everything and the Govt. accept it without any objection.

Para 1.66

(a) The Committee regret that the utilisation of the computers which cost the Railways so very dearly, is absolutely poor.

(b) It seems that the computers were hired without any thorough job analysis and assessment of work load.

(c) And later, it is seen utilisation in the really wanted sectors (like inventory control) is next to nothing.

(d) The computers are capable of processing programmes so as to achieve level of utilisation of about 400 meter hours per month of the central processor.

(e) There was uniformity on the applications taken over on computers by different Railways even though Railway Board had laid down the procedure for development by each Railway, of some programme and their adoption on other Railways for utilisation of computers. And the Railway Board took no pains to ensure proper implementation.

(f) The actual utilisation has not been upto the capacity in all the cases except one as in March, 73. In 7 cases, the utilisation was particularly poor and it ranged only between 123 and 279 meter hours. The monthly rental was based on the use of Central Processing Unit for 176 meter hours per month beyond which additional time was billed at 30 per cent of the hourly rate derived from the monthly rental. This concession, has therefore not been availed of fully.

(g) What is more serious is that in 2 cases, the utilisation is less than the minimum on the basis of which full rent is paid. All this points to the need to maximise the utilisation.

(h) In doing so, care should be taken in future to see that only such of those items as really cannot be done manually are computerised. Further it should be done with due regard to the impact of computers on the existing employees, and their promotional avenues as also on future employment/recruitment opportunities from the long range point of view. And this should not be allowed to destroy job opportunities.

[S. Nos. 1 to 6, paras 1.38 to 1.42 & 1.66 of 127 Report of Public Accounts Committee Lok Sabha].

Action taken

Paras 1.38

(a) The need for a computer in C.L.W. was accepted by the Central Statistical Organisation (Cabinet Secretariat) after a thorough assessment of the work load before it was installed. The requirement of the other production Units was also similar.

The mechanisation of accounting on the railways started with the introduction of Unit Record Machines in 1963. The circumstances in which these Unit Record Machines were introduced and later replaced by computers has been explained in the Finance Ministry's reply to PAC's point No. 11. Further, it may be mentioned here that the operational justification for installation of the Unit Record Machines was accepted by the Finance Ministry after a thorough

review before approving the financing arrangements for their installation. The computers were installed subsequently not only to do the work already done by the Unit Record Machines but also to do such other work as inventory control, pay-roll, etc., which the Unit Record Machines were not capable of. In these circumstances, a further job analysis as such at the stage of installation of computers on open line railways was not specifically carried out. It is also brought to the notice of the Committee that the computers are being fully utilised, except the one in North East Frontier Railway where the utilisation is low for reasons not entirely connected with the volume of work.

(b) As observed by the Public Accounts Committee, the decision to hire instead of purchase the computers was based on the consideration that, for an economic life of 5 years, it would be cheaper to hire the machines. That these computers would continue to be used for 8 years or more, was not envisaged at the time of installation. In fact, a provisional letter of intent for procurement of two 3rd generation computers was placed on the I.B.M. in 1969. This did not materialise as the Government did not grant them the necessary licence. Had the 3rd generation computers become indigenously available, it is possible that the more versatile and sophisticated 3rd generation machines would have been brought into use, at least, at major installation sites.

(c) It is noted that the P.A.C. do not favour estimated dividend to General Revenues amounting to Rs. 27.49 lakhs being taken into account in assessing the economics of purchase Vs: hire. It is respectfully stated that there is a distinct economic difference between the alternatives of buying the computers as against hiring them one factor of such difference being represented by the amount of dividend payable to General Revenues on the cost of the machines if purchased. In the case of purchase, there is an unavoidable liability on the Railways to pay dividend to the General Exchequer whereas when the machines are hired, there is no addition to the capital-at-charge on which the Railways have to pay a dividend. In considering such alternatives it is not incorrect to include interest on capital as an item of cashflow and it was for this reason that dividend payable to the General Exchequer was taken into account in estimating the outflow of cash for the purchase scheme.

The point made by P.A.C. that rent for two shifts should have been taken into account in making the comparative assessment between purchase and Rental Plans, is accepted. Likewise, how-

ever, the additional incidence of maintenance expense for two shift working has to be taken in the purchase plan.

In compliance with the P.A.C.'s wishes, revised purchase and rental plan calculations have been made, excluding the element of dividend and taking into account two shift working (statements enclosed—Annexures 'A' & 'B'). These calculations show that rental is more advantageous than purchase upto the 7th year for the factors explained in para 1 above. If, however, the dividend liability is added to the cash flow for the purchase plan, the total being discounted at 4 per cent interest (10 per cent normal discount rate less 6 per cent dividend added to the cash flow), the rental plan works out more advantageous upto the end of 8th year (statement enclosed—Annexure AA & BB.)

It would be seen that even in respect of the 1st computer installed on the Railways at C.L.W. on 1.8.66, the period during which the purchase plan can be considered to have an edge over the rental plan has only just commenced. The other computers on Railways were installed on various dates between Nov. '66 and January, 1970, and in these cases, the rental plan has been advantageous to the Railways so far.

However, the Railway Board have initiated a dialogue with the I.B.M. to explore the possibility of revision of the current contracts with a view to obtaining terms more favourable to Railways.

Para 1.39.

(a) The agreement actually entered into between the C.L.W. and the I.B.M. in April, 1965, in fact, did contain an option clause for purchase of the equipment. In this connection, it is submitted that in the written reply given earlier to the P.A.C. against point No. 61, a specific mention of the existence of this option clause in the C.L.W. agreement was not made inadvertently. This omission is regretted.

No such option clause was included in respect of agreement entered into for installation of computers on other Railways/Units. The Railway Board have been given to understand that, as a policy, I.B.M. did not offer "Option to purchase" Plan to any customer who took the computers on rental after June, 1965, and, accordingly, in no case the agreement entered into after that date for rental of computer contains a provision enabling the customer to purchase the equipment at his option after its installation. Apparently, the contracts for rental of computers entered into by the Railways sub-

sequent to June, 1965, were in accordance with the terms offered by I.B.M. on the basis of its revised policy.

It is respectfully submitted that, in this content, the Committee's observation that the deal was the outcome of a conspiracy with the suppliers etc. would bear reconsideration.

(b) No comments.

(c) No comments. A reference has been made to the Central Board of Indirect Taxes. It may, however, be submitted that the "Value added" in IBM's factory in India to the cost of imported components/machines cannot be ascertained.

(d) Department of Electronics have informed the Railway Board that all 1401 computers, which have been obtained by the users through IBM's manufacturing programme in India on hire or through purchase, are reconditioned machines.

Para 1.40

(a) The decision to hire the equipment was based on a number of factors including not only the economics of rental versus purchase but also its effect on the foreign exchange resources. The proposal was also seen by the Ministry of Finance before they gave clearance for the financing arrangements for the machines in question. Incidentally, the hire charges paid upto June '72 the period taken by P.A.C., would have been less than the purchase price but for the substantial devaluation of the rupee in June '66 which could not have been foreseen while entering into contract in 1963.

(b) No comments.

Para 1.40 (c) & Para 1.41

With regard to the prices being stipulated by IBM to customers in Dollars for payment in rupees and consequent increase in costs on account of devaluation of the Rupee in June, 1966, certain price adjustments were arrived at for the period ending December, 1968 as a result of discussions between the Government and the IBM. The effect of these price adjustments in regard to Railways is being separately assessed in consultation with the Department of Electronics. The Government of India (Deptt. of Electronics) have appointed an Inter-Ministerial Working Group to

look into the prices charged by IBM and assess whether they were reasonable in relation to costs and fair return on investment, to go into *modus operandi* of IBM contracts and to look into IBM's inter-company pricing. The report of this Inter-Ministerial Working Group will come up for P.A.C.'s consideration as already called for by them.

Para 1.41 (b)

A statement is enclosed (Annexure 'C') showing rental charges for machines expressed in terms of Dollar price to January, 1968, and in terms of rupees with effect from 1-1-68. It may be seen that except for marginal differences in two cases the rental in terms of rupees from 1-1-68 was arrived at by applying a straight conversion factor of Rs. 7.585 per Dollar. Thus there was no increase in rentals as such.

Para 1.42

The reasons that weighed with the Railways in their decision to hire the computers have already been submitted to the PAC. In view of the further explanations given against the various comments above, it is submitted that there is no reasonable ground for suspecting any *mala fide* in the deals between the Railways and the IBM. As the PAC is aware, an inter-ministerial working group has already been appointed by Government of India (Deptt. of Electronics) to look into the prices charged by IBM since 1-1-69 to their customers in India. One of the terms of reference of this Working Group is to go into the *modus operandi* of IBM contracts with its customers. In case the investigations made by the working Group disclose any exceptional or unusual features of the Railways transactions with the IBM, detailed re-examination as suggested by the PAC will be undertaken for further appropriate action.

Para 1.66

(a) The utilisation of computers on the Indian Railways is well above the all-India average, being 278 meter hours in July, 1973 against the all-India average of 237.6 hours. The attention of the Committee is also drawn to the official report of a work study team on automation (Office automation) appointed by the Government of Maharashtra that "on All India Level, the most impressive use of computers (in private and public sector) in all India is to be found in the integrated operation of the 14 computers controlled

by the Railway Board in New Delhi." It is, therefore, submitted that the utilisation of computers on the Indian Railways has been of a high order.

(b) Please see remarks against item 1.38 (a) above.

(c) A statement of utilisation of computers for different applications on Indian Railways is attached. (Annexure 'D'). It would be seen that the maximum percentage (20.60 per cent) of utilisation is on inventory control. The machine utilisation for this application will go up further with the implementation of 3rd and 4th phases of the system.

(d) No comments.

(e) It would be seen from the attached statement (Annexure 'D') submitted in reply to item 1.66 (c) that about 75 per cent of the computers utilisation on zonal railways is accounted for by uniform applications with common programmes; a further 11 per cent is accounted for under uniform applications with differences in programmes to suit local requirements. Thus as much as about 86 per cent. of the utilisation is in respect of uniform applications. This will show that commendable effort has been made to achieve uniformity in proper implementation of jobs on the computers.

(f) The present utilisation of the computers being at the level of the optimum requirements in terms of the workload offering at the various EDP Centres, the question of gain or loss in using extra computer hours at concessional rates does not arise. The value of underutilisation is merely notional and cannot be termed as a loss just as utilisation of computers at the concessional rate available beyond 176 hours cannot be said to be a gain. Incidentally, the Railways have been making efforts to offer spare computer time to Government and non-Government agencies wherever demand exists. During the last 4-5 years a sum of about Rs. 36 lakhs has thus been realised.

(g) The two cases referred to are Mughalsarai and N.F. Railway Computers.

As regards Mughalsarai Computer it has been decided after a review of the workload etc. to transfer the work to the D.L.W. Computer, which incidentally has some spare capacity. A notice has been served on the I.B.M. for return of the Mughalsarai Computer from 1-10-74

Regarding the N.F. Railway Computer, it is submitted that due to a serious confrontation with the labour over the installation of this computer. Railway had to go slow with the extension of computer application. This together with the comparatively small number of transactions on that Railway explains the low utilisation of the computer.

(h) Noted.

This has been seen by Audit.

[Ministry of Railways (Railway Board) O.M. No. 74-BC-PAC/
V/127(1-6) dated 2-9-74|11 Bhadra,1896.]

ANNEXURE 'A'
Purchase Vs : Hire of computer of IBM 1401

Northern Railway Installation

Purchase Plan Profile

D C F Factor @10%

Year	Cash outflow			Discounting factor Rs.	Discounted value Rs.	Cumulative discounted value Rs.
	Purchase Rs.	Maintenance Rs.	Total Rs.			
1st	27,30,678	1,03,860	28,34,628	0.909	25,76,677	25,76,677
2nd	..	1,03,860	1,03,860	0.826	85,788	26,62,465
3rd	11,12,000	1,30,860	12,42,860	0.751	9,33,388	35,95,853
4th		1,30,860	1,30,860	0.683	89,377	36,85,230
5th		1,30,860	1,30,860	0.621	81,264	37,66,494
6th		1,30,860	1,30,860	0.565	73,936	38,40,430
7th		1,30,860	1,30,860	0.513	67,131	39,07,561
8th		1,30,860	1,30,860	0.467	61,112	39,68,673
9th		1,30,860	1,30,860	0.424	55,485	40,24,158
10th		1,30,860	1,30,860	0.386	50,512	40,74,670
11th		1,30,860	1,30,860	0.351	45,932	41,20,602
12th		1,30,860	1,30,860	0.319	41,744	41,62,346
13th		1,30,860	1,30,860	0.290	37,949	42,00,295
14th		1,30,860	1,30,860	0.263	34,416	42,34,711
15th		1,30,860	1,30,860	0.239	31,276	42,65,987

NOTE 1— Based on 16 hours (7.00 AM to 11.00 PM) maintenance service per day on all days of the week, at IBM rates (excludes extra charge payable if service called for outside these specified 16 hours) :

NOTE 2— The calculation has been made by only excluding dividend and including provision for maintenance for two shift working. Other figures have been retained as per the purchase plan profile furnished to P A C. (Point No. 64.)

Purchase Vs: Hire of Computer of IBM 1401

ANNEXURE—

Rental Plan Profile

Northern Railway Installation

Year	Cash outflow			Discounting factor	Discounted value	Cumulative discounted value
	Prime shift rental	Addl. rental for 278 hours working	Total			
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1st	6,70,356	75,758	7,46,114	0.909	6,78,218	6,78,218
2nd	6,70,356	75,758	7,46,114	0.826	6,16,290	12,94,508
3rd	8,16,780	75,758	8,92,538	0.751	6,70,296	19,64,804
4th	8,16,780	75,758	8,92,538	0.683	6,09,603	25,74,407
5th	8,16,780	75,758	8,92,538	0.621	5,54,266	31,28,673
6th	8,16,780	75,758	8,92,538	0.565	5,04,284	36,32,957
7th	8,16,780	75,758	8,92,538	0.513	4,57,872	40,90,829
8th	8,16,780	75,758	8,92,538	0.467	4,16,815	45,07,644
9th	8,16,780	75,758	8,92,538	0.424	3,87,361	48,95,005
10th	8,16,780	75,758	8,92,538	0.386	3,44,520	52,39,525
11th	8,16,780	75,758	8,92,538	0.351	3,13,281	55,52,806
12th	8,16,780	75,758	8,92,538	0.319	2,84,720	58,37,526
13th	8,16,780	75,758	8,92,538	0.290	2,58,836	60,96,362
14th	8,16,780	75,758	8,92,538	0.263	2,34,737	62,31,099
15th	8,16,780	75,758	8,92,538	0.239	2,13,317	64,44,416

NOTE : Additional rental for working hours beyond first 176 meter hours has been taken as per actuals of Northern Railway Installation for the financial year 1973-74 (Details as per attached Appendix-I)

Purchase Vs' Hire of Computer of IBM 1401
Purchase Plan Profile

ANNEXURE 'AA'

Northern Railway Installation.
DCF Factor @ 4%

Year	Cash outflow			Total	Discounting factor	Discounted value	Cumulative discounted value
	Purchase price Rs.	Maintenance Rs.	Dividend Rs.				
1st	27,30,765	1,30,860	81,923	29,16,551	0.9615	28,04,264	28,04,264
2nd	..	1,30,860	1,63,846	2,57,706	0.9246	2,47,521	30,51,785
3rd	11,12,000	1,30,860	1,97,206	14,40,066	0.8890	12,80,219	43,32,004
4th	..	1,30,860	2,30,566	3,61,426	0.8548	3,08,947	46,40,951
5th	..	1,30,566	2,30,566	3,61,426	0.8218	2,97,056	49,38,007
6th	..	1,30,860	2,30,566	3,61,426	0.7903	2,85,635	52,23,642
7th	..	1,30,860	2,30,566	3,61,426	0.7399	2,74,648	54,78,290
8th	..	1,30,860	2,30,566	3,61,426	0.7387	2,64,094	57,62,384
9th	..	1,30,860	2,30,566	3,61,426	0.7026	2,53,938	60,16,322
10th	..	1,30,860	2,30,566	3,61,426	0.6756	2,44,179	62,60,501
11th	..	1,30,860	2,30,566	3,61,426	0.6496	2,34,782	64,95,283
12th	..	1,30,860	2,30,566	3,61,426	0.6246	2,25,747	67,21,030
13th	..	1,30,860	2,30,566	3,61,426	0.6006	2,17,072	69,38,102
14th	..	1,30,860	2,30,566	3,61,426	0.5775	2,08,724	71,46,826
15th	..	1,30,860	2,30,566	3,61,426	0.5553	2,00,000	73,47,526

NOTE : Based on 16 hours (7 AM to 11:00 PM) maintenance service per day on all days of the week, at IBM rates (excludes extra charges payable if service called for outside these specified 16 hours).

(The calculation has been made by including provision for maintenance for 2 shifts working and on a DCF Factor @ 4% . Other figures have been retained as per the purchase plan profile furnished to PAC (Point No. 64).

ANNEXURE 'BB'
Purchase Vs : Hire of computer of IBM 1401

Northern Railway Installation
 DFC factor @ 4%

Year	Cash outflow			Rental Plan Profile			
	Prime shift rental Rs.	Addl. rental for 278 hrs. working Rs.	Total Rs.	Discounting Factor	Discounted Value Rs.	Cumulative Discounted value Rs.	
1st	6,70,356	75,758	7,46,114	.9615	7,17,389	7,17,389
2nd	6,70,356	75,758	7,46,114	.9246	6,89,857	14,07,246
3rd	8,16,780	75,758	8,92,538	.8890	7,93,466	22,00,712
4th	8,16,780	75,758	8,92,538	.8548	7,62,941	29,63,653
5th	8,16,780	75,758	8,92,538	.8219	7,33,577	36,97,230
6th	8,16,780	75,758	8,92,538	.7903	7,05,373	44,02,603
7th	8,16,780	75,758	8,92,538	.7599	6,78,240	50,80,843
8th	8,16,780	75,758	8,92,538	.7307	6,52,178	57,33,021
9th	8,16,780	75,758	8,92,538	.7026	6,27,276	63,60,297
10th	8,16,780	75,758	8,92,538	.6756	6,02,999	69,63,296
11th	8,16,780	75,758	8,92,538	.6496	5,79,793	75,43,089
12th	8,16,780	75,758	8,92,538	.6246	5,57,479	81,00,568
13th	8,16,780	75,758	8,92,538	.6006	5,36,058	86,36,626
14th	8,16,780	75,758	8,92,538	.5775	5,15,441	91,52,067
15th	8,16,780	75,758	8,92,538	.5553	4,95,626	96,47,693

NOTE : Additional rental for working hours beyond first 176 meter hours has been taken as per actuals of Northern Railway installation for the financial year 1973-74 (Details as per attached Appendix-1).

ANNEXURE 'C'

Statements Showing Monthly Availability charged for I.B.M.'s Unit Record Machines.

Machine Model	Description	Rental as in December 1967		Rental in Rupees as fixed by IBM from January 1968
		US \$	Rupee Equivalent at exchange Rate of Rs. 7.585 \$	
		US \$.	Rs.	Rs.
024—001	Alphabetical Card Punch	42	\$18.57	319
024—002	Numerical Card Punch	17	280.65	281
026—021	Alpha Printing Punch	37	735.75	736
514—001	Reproducing Punch	132	1,001.22	1,031
056—001	Alphabetical Verifier	52	394.42	394
056—002	Numerical Verifier	47	356.50	356
082—001	Sorter	60	455.10	455
077—001	Collator	115	872.23	873
402—A01	Accounting Machine	448	3,398.08	3,399
447—G01	Accounting Machine]	610	4,626.85	4,627
447—K02	Accounting Machine	370	2,806.45	2,807
602—A01	Calculating Punch	300	2,275.50	2,276
609—B01	Calculating Punch	937	7,107.15	7,111

NOTE :—(1) All payments prior to January 1968 were made in Rupees at official Bank Exchange Rates prevailing at the time of payment in accordance with the provisions of the agreement.

(2) The exchange rate of US Dollar was around Rs. 4.800 before devaluation and Rs. 7.585 after devaluation.

ANNEXURE 'D'

Computer Applications and Extent of Utilisation on the Zonal Railways.

Application	Total Meter Hours (All Railways put together)				Percentage to total utilisation as at 'D'
	Oct. 73	Nov. 73	Dec. 72	Average per month	
A. Uniform Applications with Common Programmes.					
(1) Freight Accounting & Statistics.	441.23	450.68	456.75	449.55	18.96
(2) Passenger Accounting & Statistics.	359.50	478.34	376.39	404.74	17.07
(3) Coal Wagon Linking.	60.59	84.80	55.71	67.03	2.83
(4) Office Pay Roll	352.49	351.07	380.01	361.19	15.23
(5) Inventory Accounting	478.88	464.34	521.85	488.36	20.60
Total 'A'	1,692.69	1,829.23	1,790.71	1,770.87	74.69
(B) Uniform Applications with differences in Programmes to suit local requirements.					
(1) Workshop Pay Roll	150.04	124.55	130.49	135.03	5.69
(2) Operating Statistics.	157.55	100.76	108.58	122.30	5.16
Total 'B'	307.59	225.31	239.07	257.33	10.85
(C) Non-uniform Applications	287.07	356.80	384.67	342.85	14.46
(D) Total (excluding Programme testing hiring to outsiders etc.)	2,287.35	2,411.34	2,414.45	2,371.05	100.00
(E) Programme testing, Hiring out etc.	77.66	340.78	263.82	260.59	
(F) Grand Total	2,465.01	2,751.62	2,678.27	2,631.64	

APPENDIX—J

Rental Paid for the Computer of Northern Railway

Month	Meter Hrs. of CPU used.	Regular Rental	Additional Rental	CPU 1401	R. Punch + 1402	Printer + 1403	Storage + 1406	Magnet ^{ic} Tape Unit.
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
April 1973	272·50	65522·00	5786·50	3937·88	..	549·7	1298·89	..
May, 1973	307·65	Do.	8608·13	5627·39	74·83	822·71	1856·16	227·04
June, 1973	260·16	Do.	5744·40	3869·10	..	599·10	1276·20	..
July, 1973	287·28	Do.	6956·80	4647·22	56·31	720·41	1532·36	..
Aug, 1973	278·87	Do.	6433·41	4303·30	47·31	663·38	1419·42	..
September, 1973	270·51	Do.	5674·90	3808·9	24·65	584·99	1256·35	..
October, 1973	241·50	Do.	4035·91	2815·85	..	291·27	928·79	..
November, 1973	282·54	Do.	6691·69	4496·75	79·19	632·52	1483·23	..
December, 1973	278·77	Do.	6319·81	4148·54	..	676·26	1368·37	..
January 1974	303·64	Do.	8060·34	5481·23	77·49	679·63	1807·95	14·04
February, 1974	266·99	Do.	5609·94	3890·60	22·14	413·91	1283·29	..
March 1974	269·50	Do.	5835·96	4019·57	..	490·56	1325·83	..

Recommendations

1.99

In an earlier section the Committee have dealt with the purchase of computers and other equipments from IBM. They are concerned to note the following serious irregularities in the purchase of disc packs required for the computers from the same firm which has benefited the firm unjustifiably.

1.102

(i) In the opinion of the Committee the type of contract entered into with this firm was very much unusual and one-sided. There have been significant deviations from the standard conditions of the contract prescribed by Government. For instance, there was no provision in the contract entered into with this firm for arbitration in the event of any question, dispute or difference arising under the terms and conditions of the contract. Surprisingly, the contract entered into by the Chittaranjan Locomotive Works had not even been signed for and on behalf of the President of India to comply with the mandatory requirement of Article 299(i) of the Constitution and hence it is held as legally not valid and unenforceable. Unfortunately, no legal opinion was obtained before entering into this contract.

(ii) This is an unsavoury story and evokes suspicion of corruption and malpractice.

[(S. Nos. 7 and 10, Paras 1.99 and 1.102 of 127th Report of P.A.C. 5th L.S.)].

Action taken

Para 1.99. Please see reply to S. No. 8 at pages 41—43.

Para 1.102(i). The absence of an arbitration clause in the contract and failure to execute the contract "for and on behalf of..... the President of India" are inadvertent omissions. All Railways/ Production Units have been cautioned to guard against such omissions in future. The absence of an arbitration clause does not, however, mean that Government is contractually bound to accept any unreasonable demands which may be made by the firm. The parties can mutually agree to refer the disputed issues to arbitration even in the absence of a formal arbitration clause in the agreement. Failing such an understanding, the disputed issues can always be taken by Government to the Court of Law.

[(Ministry of Rlys. (Rly. Board) O.M. No. 74-BC-PAC/V/127 (7-14) dated 24-8-1974/Bhadra 2, 1896)].

Recommendation

The matter also requires a careful examination from the customs angle. As the firm is a wholly owned subsidiary of the I.B.M. World Trade Corporation, the possibility of under-invoicing of the goods imported is very much there. The Committee understand that a Special Valuation Branch of the Bombay Custom House has undertaken a review in respect by goods imported by this firm and that with effect from August, 1973, the imports by this firm are assessed provisionally. The Committee stress that this review should be completed expeditiously, and the action taken on the basis of the review intimated to them.

[S. No. 12, Para 1.104 of the 127th Report of the PAC (5th L..S.)]

Action Taken

The imports of data processing machines and spares thereof by I.B.M. from their principals and associates abroad after 1st May, 1962 were being assessed on the basis of the Inter Company Billing prices plus 73 per cent plus actuals of freight, insurance and other charges in the light of Board's Order-in-Appeal No. 45, dated the 23rd March, 1964.

On a further review of the position, the Custom House, Bombay, had informed *vide* letter dated the 29th September, 1973, that, a decision was taken to assess the goods imported by the firm provisionally with effect from 25th August, 1973, pending completion of the review undertaken by the Special Valuation Branch of the Bombay Custom House in October, 1972.

The Special Valuation Branch of the Bombay Custom House has since completed its review and conveyed its confirmed decisions to the firm in its letter No. S/43-66/55A. Pt. III, dated the 17th December, 1974 (Copy enclosed). M/s. I.B.M. have also been informed that these decisions will remain in force till the existing relationship with their foreign associates and the present method of invoicing continued.

This issues with the approval of the Additional Secretary in this Ministry.

[F. No. 493|18|73-Cus. VI. M]o Finance (Department of Revenue and Insurance)]

REGISTERED A.D.

No. S/43-66/55 A Pt. III.

Special Valuation Br.,
Special Valuation Br.
New Custom House,
2nd floor, Ballard
Estate, Bombay-38.
Dated: 17th December, 1974.

From

The Asstt. Collector of Customs,
Special Valuation Branch,
Bombay.

To

M/s. I.B.M. World Trade Corp.,
Nehru House,
4, Bahadur Shah Zafar Marg,
New Delhi-110006.

Dear Sirs,

Sub.—Invoice values of goods imported from abroad—Acceptance of.

Please refer to your letters dated 19th October, 1974, 25th November, 1974 and 15th December, 1974 containing various representations and personal hearing given to your Mr. Sundra Raman and Mr. Alexander on 22nd November, 1974 against the tentative decisions communicated to you *vide* this office letter dated 16th September, 1974 on the above subject.

You have contended that the existing basis of assessable value for D.P. Machines and spares at ICBP + 73 per cent + PIF was determined in terms of order dated 23rd March, 1964 issued by CBEC. This contention is incorrect. The existing decision was taken under Customs Act 1962. The Board's Order quoted by you was against the order in original passed by the Addl. Collector of Customs under the provisions of Sea Customs Act 1878. The provisions for determination of value are different in Section 30 of Sea Customs Act 1878 on one hand and Section 14 of Customs Act on the other. This office decision conveyed to you in 1965 was taken under the Customs Act 1962 and has no relation what so ever with the Board's aforesaid order. Hence the tentative decision communicated to you in review do not in any way modify or over-rule the decision of the Board.

The tentative decision communicated to you is the decision taken in review of the decision of this department taken in 1965 under Customs Act 1962. Fresh decisions have been necessitated because of certain new developments which have come to light during the present investigations. At the time of earlier investigations no evidence of value under Section 14(1)(a) of Customs Act 1962 was brought on record or was adduced. Similarly spare parts of D.P. Machines were also not sold to independent buyers then. At present the evidence of value under Section 14(1)(a) *ibid* is available for the imports made from your U.S. associates. Though the evidence of value under Section 14(1)(a) *ibid* is not available in respect of your other foreign associates, however, the evidence of value to an independent buyer in the country of manufacture i.e. evidence of value under rule 3(d) of Customs Valuation Rules 1963 is available in such cases. It may be stated here that evidence of sales prices of goods or comparable goods made on an independent basis by a seller and buyer not having any interest in the business of each other is the best evidence of value acceptable in the law. The evidence of value under Section 14(1)(a) *ibid* or under rule 3 *ibid* fulfil the above condition. In the light of above facts, the decision has been taken afresh.

Without prejudice to what is stated above it may also be pointed out that Board's order in appeal against Addl. Collectors' order under Sea Customs Act 1878 and this Custom House decision of 1965 under Customs Act 1962 were based on the facts which were made available at that particular time. During the present re-examination of facts it has been ascertained that ICBP has no relation to actual cost. It has been established that in most of the cases it is an estimation having no regard to the actual cost. In the light of new evidence on record, the earlier orders lose their relevancy and do not fit in with the set of facts as revealed now.

You have contended that rule 3 cannot be applied to the valuation without making certain deductions on account of various post importation services, expenses and profits of the importing buyer—reseller. It may be clarified here that Section 14(1)(a) of Customs Act 1962 as well as rule 3 of Customs Valuation Rules 1963 both presuppose that the sale is being made in the ordinary course of trade between a seller and buyer who are independent of each other and where price is the sole consideration of such transaction. In such prices the question of any post importation expenses or the profit of buyer-reseller does not arise.

You have also stated that all branches and subsidiaries have the same selling price base. Thus the selling price includes the profits and post importation expenses of an importer reseller and cannot be dutiable value. It may be pointed out that this department is not taking into consideration your (I.B.M. India) selling price. The question of deduced value for assessment arised only if the goods are imported on consignment account and are being sold on behalf and the risk of the exporters and the assessment is being made under rule 7 of Customs Valuation Rules 1963. The profits or losses made by you are totally irrelevant in determining the value under Section 14(1)(a) of Customs Act 1962 or under rule 3 of Customs Valuation Rules 1963.

It is erroneous to think that in terms of Section 12 & 14 of Customs Act 1962 only "goods" are subject to duty. It may be clarified that a duty of Customs is chargeable on any goods *by reference to their value*. By reference to value means that the value of the goods will not only include the cost of hardware but also service charges expected from a buyer in the course of ordinary business in terms of provisions of Customs Act 1962.

However considering various contentions put forward by you and the special nature of the goods (D.P. Machines) imported by you it is felt that these goods to contain certain non dutiable elements like programmes and post importation services like installation planning, installation of systems, training of users staff etc. You have also stated that these services are provided free of cost to the buyer. Therefore certain deduction on this account will not be out of place.

It is seen that your U.S. associates have allowed a commission @ 25 per cent of the invoice value of these goods supplied by them to various Universities directly. In your letter dated 7th February, 1974 you have stated that you provided these services as enumerated above free of charge to these Universities. It is therefore felt that this compensation in form of commission of 25 per cent of the said invoice value has been given to you to meet out such expenses and over-heads as may be incurred on the said non dutiable elements by you. This could be the maximum amount for these elements and services, otherwise your compensation should also have been higher. It has therefore been decided to allow you a deduction of 25 per cent on the value determined for assessment under Section 14(1)(a) of Customs Act 1962 or under rule 3(d) of Customs Valuation Rules 1963. Please note that this deduction will be admissible on the imports of D.P. Machines only. Tools

& Spares of D.P. Machines will not be entitled for any deduction as these do not contain any soft ware or other duty free post importation service.

ICBP

You have admitted that ICBP does not represent the value as defined in Section 14 of Customs Act 1962. It may again be mentioned here that the evidence of sales prices to an independent buyer who does not have any interest in the business of seller and *vice versa*, and where such price is the sole consideration of sale is the best evidence of value acceptable under the law. When such evidence of value (either under Section 14(1)(a) of Customs Act 1962 or under rule 3 of Customs Valuation Rules 1963) is available, the determination of assessable value on the basis of ICBP would be irrelevant and of no consequence.

Never-the-less and without prejudice to what is stated above, other grounds for rejection of ICBP have already been enumerated in the earlier communication are self explanatory. However, it may be stated.

(a) Except the auditors certificate and the copy of affidavit of your controller submitted by you, there is nothing else to check the correctness of the ICBP. Examination of your own record, reveals that most of shipments affected by you to your associates do not represent manufacturing cost + 25 per cent as indicated in the auditor's certificate. This fact is inherent an account of particular system of costing adopted by you and your associates. In the circumstances the concept of ICBP becomes theoretical and has no relevance with the actual cost.

(b) The elements which you consider expenses of a buyer reseller are in fact the elements of value which make the final price to the buyer. In this connection attention is invited to the provision of rule 5 of Customs Valuation Rules 1963 wherein Government of India has provided that such expenses form the part of assessable value of the goods. The cases where the value is determined under rule 5 *ibid* the expenses of agents are included in the assessable value. It is therefore incorrect to infer that these elements are non dutiable.

(c) It is seen that projected ICBP which you receive in advance and the invoice ICBP are different from each other. According to your own statement even the invoice ICBP is also estimated. This evidently proves that neither the projected ICBP nor the invoice

ICBP represents the actual price of the goods imported. Further no material evidence has been made available or in available with which invoice values can be checked with reference to their ICBP. Thus the ICBP is reduced to a nebulous phenomenon which cannot be accepted by the department to form the basis of determination of value.

(d) You have submitted that variance of manufacturing cost +mark up becomes the cost of next batch. It is not possible to ascertain this fact with reference to the ICBP charged from you. The so called 'Cost' may be included in the price of batch which has been exported to some other location or some other location's Cost may be included in your invoice price. Thus the batch of goods which are actually imported at the material time have no relevance to the actual cost.

(e) Regarding possibility of one location being continuously under/over charged it may be stated that what is expressed is the probability of such occurrences, particularly when there is no evidence to show that such under/over recoveries have been adjusted regularly to the location against whom such over/under recovery has arisen as the result of your system of accounting

(f) It appears that you are under the wrong impression in respect of the statement that supplies are made from the batch/ production of which is incomplete. The (Batch) here has been used for a number of machines or parts and not for single unit as understood by you.

Your contention that the sale of D.P. Machines to various Universities etc. cannot constitute evidence of value under Section 14(1)(a) of Customs Act 1962 is quite incorrect. India Supply Mission are the buying agents of Government of India. The purchases made by them are in course of ordinary trade hence the prices paid by them duly constitute the evidence of value under Section 14(1)(a) *ibid*.

Duitable value for manufacturing/maintenance parts

There appears to be certain misunderstanding on your part regarding the value determined for assessment of your imports. The value determined under rule 3(d) of Customs Valuation Rules 1963 is the price at which the goods are sold by the manufacturer to an independent buyer in the country of origin. Your selling price does not come into the picture while determining the value under rule 3 *ibid*.

Your argument that the sale of parts is a fraction of total sale in a year, is not tenable. The evidence of value includes actual sale as well as mere offer of sale under the provisions of the Act.

Regarding manufacturing parts while general trade practice may be that when a supplier supplies a part to be used in manufacturing operation the charges less price than what he charges for the same part when it is to be used as a spare. In your case it is seen that the pricing policy adopted by your associates in respect of component and spare part is same i.e. both are supplied at the identical price. Therefore this department finds it difficult to adopt separate valuation for the separate usage of the same part particularly when the evidence of value to an independent buyer is available in respect of these parts.

It appears that in the tentative decision the rule applied for determination of value of these parts has been mentioned by error as rule 8 of Customs Valuation Rule. It should read as rule 3(d) of Customs Valuation Rules 1963.

Electric Typewriters

You have now submitted evidence of sale made to independent dealers in other countries by IBM Germany and IBM Netherlands. From the invoices submitted by you it would appear that these locations have also allowed a discount of 40 per cent on their domestic selling price to these independent dealers in other countries. Therefore the tentative decision communicated to are modified to the extent that your imports of Electric Typewriters from IBM Germany and IBM Netherlands in addition to IBM U.S.A. will also be assessed after allowing you a discount of 40 per cent on the respective locations domestic selling price under rule 3(b) of Customs Valuation Rules 1963.

The tentative decisions communicated to you *vide* this office letter of even No. dated 16th September, 1974 are hereby confirmed subject to modifications mentioned in this communication.

These confirmed decisions will also be applicable to all imports assessed provisionally (for the reasons of determination of assessable value) from the year 1970 onwards.

If you feel aggrieved, an appeal against these decisions lies with the Appellate Collector of Customs, Scindia House, 3rd floor, Bombay 400038 under Section 128(1)(b) of Customs Act 1962. This appeal should be made within 3 months of the receipt of this communication and should be affixed with a Court Fee Stamp of

50 p. Such appeal should also be accompanied with a copy of the decisions against which it has been preferred. The copy of such decisions should also bear a Court Fee Stamp of 50 p. likewise.

These confirmed decisions will remain in force till the existing relationship with the foreign associates and present method of invoicing remain unchanged. Any change affecting the invoice value materially should be intimated to this office without delay. Please note that these decisions are subject to review without any reference to you, should the circumstances warrant such action.

Yours faithfully,

Sd/-

(A. A. BASHEY)

Asstt. Collector of Customs (S.V.B.).

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE MAY NOT DESIRE TO PERSUE IN THE LIGHT OF THE REPLIES OF GOVERNMENT

Recommendations

1.100

The first purchase of 39 Nos. of disc packs was made by the Chittaranjan Locomotive Works Administration under an agreement executed in April, 1965. The payment was made in November 1966 at the rate of Rs. 3,712 each equivalent to the firm's catalogue price of 490 dollars. The agreement provided for the payment at the firm's established price at the time of delivery or the catalogue price whichever was lower. The "established price" had, however, not been defined in the agreement. It was subsequently noticed that the prices of these disc packs shown by the firm in the bills of entry ranged between 265 DM and 275 DM (Rs. 489 and Rs. 517). These are however, assessed for customs duty at the rate of Rs. 925 per piece. It is obvious that the reasonableness of the price quoted by the firm had not been gone into before entering into the contract. This would happen for reasons that the Committee can only consider as dubious. Similarly, purchases of 151 disc packs were made by the Integral Coach Factory, Diesel Locomotive Works and Railway Board from the same firm at the same price of 490 dollars each between November, 1968 and July 1970. Some of the quotations recently (Oct. '73) obtained through global tender from six firms were as low as 168.67 dollars and 170.38 dollars (CIF Bombay).

1.101

The purchases were not made through the D.G.S & D. Justifying the direct purchases the Railway Board have intimated that according to para 801-S of the Indian Railway Code for the Stores Department, the purchase by Government Railways through the agency of D.G.S. & D. of the items of railway stores enumerated in the code; as may be amended, modified or curtailed from time to time,

alone is obligatory and that the disc pack was not one of the items enumerated. No doubt at the time of codification this was not an item which was in use by Railways. This was done in undue haste and, therefore, gives rise to serious suspicion. As the Railways and other Government Departments went in for purchases of computers and connected equipment only in the recent part, necessary amendment ought to have been made to the relevant provisions of the Code so-as to have uniformity in purchases which is possible only if the purchases are made centrally by the D.G.S. & D. The Committee would require an explanation as to why this was not done at the appropriate time. The official responsible should be brought to book.

1.103.

In view of the fact that apparently the transaction involved a large overpayment, as the difference (400 per cent) between the value assessed by the Customs authorities and the price charged to the Railways cannot be entirely attributed to the firm's overhead expenses etc, and that a number of serious lapses have occurred as detailed above, the Committee stress that the whole matter must be examined with a view to taking appropriate action against the persons involved immediately. The Committee should be advised of the outcome within 3 months.

[S. Nos. 8, 9 and 11 Paras 1.100, 1.101 and 1.103 of 127th Report of P.A.C. (5th L.S.)].

Action Taken

Paras 1.99 & 1.100.

C.L.W's proposals for the hiring of a computer from the I.B.M. and for the purchase of disc packs for this computer (which was disc-oriented) were approved by the Railway Board in February, 1965. It is true that the reasonableness of the price of the disc packs as quoted by the firm had not been gone into specifically before the contract was signed. It may be mentioned, however, that the I.B.M.'s quotations to all customers in India for the sale, or rental, of their equipment are uniform, a fact which has been confirmed by enquiries with a number of other customers both Government and non-Government. Acceptance of the quoted price by the Railway was, in the circumstances, not an exception. I.B.M. has supplied some information regarding the contemporaneous prices of other brands of disc packs as obtained by their H.Q. office from the pub-

lished data of the other manufacturers. The information supplied shows that the prices charged by the I.B.M. were fairly comparable at that time to the prices of the other firms (*vide statement attached*).

It is true also that the term 'established price' has not been defined in the agreement. This term was obviously understood to mean the ruling catalogue prices of the firm or the prices as updated by the firm. In this particular case the price as claimed by the firm is the same as was mentioned in the agreement.

P.A.C. has commented upon the wide gap between the sale price of the disc packs and the price shown in the Bill of Entry for the purchase of assessment of custom duty. The fact of this wide discrepancy came to be known only in December, 1966, when the firm claimed importation charges for the disc packs. Immediately this wide discrepancy came to notice, the matter was taken up by the C.L.W. Administration with the firm, with the Central Government's Legal Branch at Calcutta and thereafter reported by them to the Railway Board. In view of the fact again that this issue might have other important implications, the Board in turn took up the matter with the Ministry of Finance and various other authorities, including the Department of Electronics. The sustained action taken by the C.L.W. Administration and later on by the Railway Board in this case would amply demonstrate the keenness and bona-fides of the Railway Administration and of the Railway Board to safeguard the interest of the Government.

During the first few years of computerisation on the Railways disc packs continued to be purchased from the I.B.M. at prices quoted by them. During that time (1966—69) the Railway Board had embarked upon an extensive scheme of computerisation on the Indian Railways and computer technology itself was relatively new to the country at that time. Because of limited experience in the field, as also the sophisticated nature of the equipment which had to meet the specifications prescribed by the I.B.M., reliance was placed on the computer suppliers for the supply of disc packs. Enquiries have revealed that the practice of obtaining the disc packs from the suppliers of the computers prevailed with virtually all other Institutions, Government and semi-Government, which introduced computers. In other words, organisations which obtained computers from the I.B.M. by and large obtained disc packs from the I.B.M. and those who obtained computers from the I.C.L. procured disc packs also from the I.C.L. The considerations which weighed with the Railway Board in the matter of ordering disc

packs from the computer suppliers apparently weighed with other users of computers in India as well.

Keeping these circumstances in view it is submitted that there need be no apprehension that any special favour was shown to the firm (through this order for disc by the Railway Board).

It may be mentioned that the matter regarding prices of disc packs procured by the Railways from the I.B.M. has since been referred by the Department of Electronics to an Inter-Ministerial Working Group as a specific item.

In passing it may be mentioned that some consequential advantage may occasionally accrue in buying the disc packs from the suppliers of the computers. In the case of the C.L.W. for example, there was some delay in the supply of the disc packs by the I.B.M. The matter was taken up by the C.L.W. with the firm, and on the ground of possible underutilisation of the computer system, they agreed to forego the rental for the computer for a period of about one month, yielding a saving of Rs. 36,000. This advantage could not have been obtained if the disc packs were to be obtained from a different agency.

Para 1.101.

In the period 1965—69 when Railway Board embarked upon an extensive computerisation scheme on the Indian Railways leading to the ordering of 14 computers for installation on the Railways, Production Units and the Mughalsarai Yard, the experience in computer technology in the country was limited. In those initial years therefore all input/output and data storage equipment (viz., cards, tapes and discs) were being obtained by the Railways from the suppliers of the computers. All these items had to come up to the specifications prescribed by the firm. Against this background no particular advantage could accrue had the procurement been entrusted to the D.G.S. & D.

During that period, computers came to be adopted by quite a number of other Government and semi-Government institutions who had also occasion to purchase disc packs. It has been ascertained informally that these institutions got the disc packs from the suppliers of computers at prices quoted by them. Concurrently, it has also been ascertained from D.G.S. & D. that during this period 1965—70 they have not purchased any disc packs for Government Departments/Organisations. In other words, the computer users including Government Departments bought the disc packs almost invariably from the suppliers of the computers and D. G. S. & D. was not approached by any of them for the purpose.

704 LS—4.

However, as far as the Railways are concerned, as more experience in computer technology was gained and it came within their knowledge that supplies from other manufacturers of these items of equipment would be technically compatible with I.B.M. computers the Railway Board proceeded to place orders for these items on other firms after conducting experiments/trials in each case, as explained below. The exclusive dependence on the computer supplier for these items (*viz.* cards, tapes and discs) was given up at the first opportunity.

(i) *Cards for punching:* ..

The question of obtaining the cards through the agency of the D.G.S. & D. was taken up for review in early 1970. It had to be examined that I.C.L. cards (which were the only other supplier of cards for punching) could be used on the I.B.M. computers without causing problems such as card-wrecks, mis-feeds etc. Accordingly, trials with cards obtained from I.C.L. were conducted on some selected Railways and when the results were found satisfactory, the procurement of cards for the Railway computers was entrusted to the D.G.C. & D. *w.e.f.* 1972-73.

(ii) *Magnetic Tapes:*

In the case of magnetic tapes when other possible sources of supply came to the knowledge of the Board, trials were carried out, with the consent of the I.B.M. with sample tapes obtained from other firm, proved successful, orders for disc packs have recently been procuring tapes from the open market after obtaining tenders from various likely suppliers.

(iii) *Disc packs:*

A similar procedure has been adopted for disc packs as well. After the experiments with a sample disc pack, received from another firm, proved successful, orders for disc packs have recently been placed on M/s. Echbee Corporation (not connected with I.B.M.) after obtaining quotations from various suppliers.

In view of all the circumstances mentioned above, and also of the fact that the immediate requirement of disc packs for the computer systems installed on Indian Railways, has been practically met, it is submitted that:—

- (i) no particular purpose will be served by transferring the item to D.G.S. & D. particularly when the Railway

Board is now purchasing this equipment on the basis of competitive tenders from likely suppliers and;

- (ii) the purchase of disc packs in the manner stated above may not be construed as a lapse on the part of officers who handled the case and took relevant decisions. As explained, all the computer users in India depended almost invariably for this equipment on the suppliers of the computers. No malafide should, therefore, be attributed to the officers concerned.

Para 1.102(ii) and 1.103:

The manner, and the circumstances, under which I.B.M. quotations for the disc packs were accepted and a contract entered into on that basis by the Railway Administration, has been explained earlier. It has also been explained that whereas the contract was entered into in April, 1965 the discrepancy between the sale price and the price exhibited in the Bill of Entry for customs purposes came to notice only in December, 1966, when the firm claimed the importation charges. As soon as the discrepancy was noticed, the issue was joined with the firm. Since it was felt that much wider issues might be involved, the matter was taken up by the Board with various Government agencies such as Ministry of Finance, Ministry of Industrial Development, Department of Electronics etc. The keenness with which this case has been handled, after this discrepancy in price came to notice, by the C.L.W. Administration and the Railway Board and the creditable vigour with which it has been pursued amply demonstrate the good faith and bonafides of the Administration.

It has also been brought out that almost invariably all the computer users in India got disc packs directly from the suppliers of computers at prices quoted by them, and not through the D.G.S. & D., the latter having also confirmed that no disc packs were purchased by them during the period 1965—70. In all these circumstances there need be no suspicion of corruption and malpractice in the order placed by Railways for disc packs on the I.B.M.

The entire pattern of business by the two computer firms in India (M/s. I.B.M. and I.C.L) is now under a high level investigation by an Inter-Ministerial Working Group set up by the Department of Electronics. The terms of reference of that Working Group include items such as prices/rentals charged, export/import, inter-company prices based on which these firms operate in India, the basis of costs

as applicable to customers etc. The particular transaction of disc packs procured by the Railway has been specifically referred for investigation to that Group. The Railway Board submit that the question of taking any action against any individual(s) in respect of this transaction would arise only if any unusual features warranting such a course of action come to the notice of the Inter-Ministerial Working Group in the course of their investigations.

This has been seen by Audit.

[Ministry of Railways (Rly. Board) O.M. No. 74-BC-PAC/V/127 (7-14) dated 28-8-1974/Bhadra 2 1896].

<i>Manufacturer</i>	<i>Date</i>	<i>Us Price DLRS</i>
BASF	Oct. 62	490
	Jul. 69	360
CAPLUS (EMM)	Aug. 67	App. 475
	Current	App. 435
		(Possibility not updated.)
CDC	May 68	450
MEMOREX	Jan. 67	495
3 M	Apr. 68	490

CHAPTER IV

**RECOMMENDATIONS/OBSERVATION REPLIES TO WHICH
HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND
WHICH REQUIRE REITERATION**

N I L

CHAPTER V

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

Recommendation

The Committee learn that the Department of Electronics have constituted an Inter-Ministerial Working Group in July, 1973 to go into the reasonableness of prices charged by this firm (after 1-1-1969) and other connected matters. The Committee should be kept informed of the outcome of the study by this Working Group which should be asked to complete it within three months.

[Sl. No. 13, para No. 1.105 of the 127th Report of PAC (Fifth Lok Sabha)].

Action taken

The Inter-Ministerial Committee set up in June, 1973, to investigate into the cost aspects of IBM as well as ICL (International Computers Ltd.) has submitted an interim report on 31st July, 1974. A copy of the interim report is herewith forwarded for your information.

On the basis of the analysis of the financial statements of IBM and ICL, the Committee has come to the conclusion that there would be a case for reduction of prices of equipments supplied by these companies. A detailed examination into the cost structure would be necessary to determine the quantum of production in prices that should be effective.

The Ministry of Law has been consulted and based on their advice, the Ministry of Industrial Development have been requested to give necessary clearance for implementing the provisions of Section 15 and 19 of the Industries (Development and Regulations) Act, 1951. Section 15 will empower investigation into the rise in the price of an article of manufacture and ordering regulation of such prices. Section 19 would enable ordering production of document or examination of persons to ascertain facts pertaining to the prices of items of manufacture. On receipt of such clearance, further necessary action will be taken. It is expected that the analysis would be completed by March, 1975.

[Department of Electronics O.M. dt. 13-12-74.]

Recommendation

The Committee's examination of the purchase/hire of machinery and equipments from this firm has brought out wider ramifications requiring an immediate and a detailed probe. Such transactions with this firm were not confined to Railways alone. A number of other Departments of Govt. had also entered into business deals with this firm. Normal procedures of purchases did not appear to have been followed. There had been several lapses and irregularities in the transactions. The firm had been imposing its own terms and conditions on the Government. The purchase price or the rental, as the case may be, had been expressed in terms of dollars and the rupee equivalent as on the date of payment had to be paid presumably even in the case of indigenous manufactures and the machinery imported prior to devaluation of the rupee. This had the effect of considerably enhancing the liability for payment after the devaluation in June, 1966. Further, it appeared that the firm could and did in fact unilaterally raise the price/hire charges in terms of the agreement and that the Government accepted it without any questioning. The implications of declaring a low value to the Customs as also the reasonableness of price/rental charges required to be gone into keeping in view particularly movement of foreign exchange and the Income-tax liability of the firm. Incidentally the real need for computers, the economies of hire *vis-a-vis* purchase, the actual need based utilisation and the results achieved also required critical examination. The Committee accordingly decided to go into the matter fully. As the matter concerned various Ministries/Departments, a detailed questionnaire as at Appendix IV, was sent in December, 1973 to the Ministry of Finance to collect, consolidate and furnish the required back ground information to enable the Committee to have an examination covering all aspects of the deals with this firm and other similar firms. Very unfortunately the Committee have not received the requisite information so far (April, 1974) inspite of repeated reminders and close persuasion. This is regrettable. The Committee have, therefore, reluctantly to defer the fuller examination of the matter. They expect that the Ministry of Finance will not delay the information any further and the outcome of the study undertaken by the Inter-Ministerial Working Group should also be reported to them without any further delay. The Committee are anxious that this question in relation to which very significant information has come to their notice at least from the Railways, should be seriously pursued at the earliest opportunity.

[Serial No. 14, Para 1.106 of 127th Report of the Public Accounts Committee—5th Lok Sabha]

Action taken

1. Information received from 22 Ministries/Departments of the Government of India on the various points listed in Appendix IV to the above mentioned Report was furnished to the Public Accounts Committee with the Department of Expenditure O.M. No. 12(55)-E (Coord)/73 dated 4th June, 1974. Since complete information on points 7, 8, 9, 10 and 12 had not been furnished by the Ministries/Departments, the Central Board of Excise and Customs, Central Board of Direct Taxes, Deptt. of Economic Affairs, Company Law and Department of Electronics, etc. were addressed, as suggested by the Lok Sabha Sectt. in their U.O. No. 242(1)73PAC dated the 22nd July, 1974. The Committee also desired to have information in respect of the following two additional points:

- (i) (a) Please state whether the workload and the purpose for which computers or other electronic data processing accounting machines were purchased were determined.
- (b) If so, please give details thereof?
- (c) if not, the reasons therefor?
- (ii) (a) Please give details of the savings in wages effected as a result of the acquisition of these machines by the Govt. Departments.
- (b) What are the other advantages, if any, accrued as a result of installation of such machines?
- (c) Please also indicate the actual location of the machines.

The position with regard to the steps taken and the progress made in the collection of the information was intimated to the Lok Sabha Sectt. in the Department of Expenditure U.O. No. F.12(55)-E (Coord)/73 dated 9th August, 1974. A copy of the U.O. is appended for ready reference (Annexure).

Subsequently with reference to point No. 12 of the initial list of points and para 3(v) of the above mentioned U.O. note of the Lok Sabha Sectt., copies of the confidential interim report submitted by the Inter-ministerial Working Group set up by the Department of Electronics were also forwarded to the Lok Sabha Secretariat with the Deptt. of Expenditure U.O. No. F.12(55)-E (Coord)73 dated: 17th August, 1974.

The matter is being pursued vigorously with the Ministries/Departments and other organisations concerned and the information asked for by the P.A.C. will be furnished as expeditiously as possible.

[Min. of Fin. No. F.12(44)-E(Coord)/74 dt. 23-10-74]

(Annexure)

MINISTRY OF FINANCE

Department of Expenditure

E(Coord) Branch

SUBJECT:—*Examination by the Public Accounts Committee of the purchase|hire of computers and other electronics data processing|accounting machines by Government Departments.*

The Lok Sabha Secretariat may kindly refer to their U.O. No. 2|4|2(1)73|PAC, dated 22nd July, 1974 regarding the information required by the Public Accounts Committee on the above subject.

2. The steps taken and the progress made in the collection of information in respect of the various points mentioned in para 3 indicated below seriatim:

- (i) and (ii)—As desired by the Committee, the matter was taken up with the Central Board of Excise and Customs who informed us that before they are able to proceed in the matter of comparing the prices declared to them with the prices charged from the various Ministries/Departments of the Government of India, it was necessary that they should have particulars about the name of the importer, description of the imported articles purchased, price per unit paid, the number and date of the bill of entry or at least the date of Customs clearance or the name of the importing ship and the month of arrival, etc. The Ministries concerned had, therefore, to be addressed again to send these particulars direct to the concerned Collectors of Customs through whose port the goods were imported, keeping us informed of the progress.
- (iii) The Department of Economic Affairs and the Department of Company Affairs were addressed as suggested by the Lok Sabha Secretariat. The former intimated that the release of foreign exchange of various firms for their raw material requirements is made through the Supplementary Licencing Committee and for their project re-

quirements through Capital Goods Committee, both operating under the Ministry of Industrial Development. The information is now being collected from the Ministry of Industrial Development and the Chief Controller of Imports & Exports. The matter is being pursued vigorously. As regards the repatriation of profits out of India, the Department of Company Affairs has replied to say that the information can be furnished only by the Reserve Bank of India. The matter has accordingly been taken up with the Reserve Bank through the Department of Economic Affairs.

- (iv) The Department of Revenue & Insurance are still collecting the information from the Commissioners of Income Tax concerned to whom telex reminders are being issued. Consolidated information will be supplied as soon as received.
- (v) The Inter-Ministerial Working Group set up in March 1973 by the Department of Electronics has submitted as interim report on 13th July, 1974 and the Department of Legal Affairs have been requested to advise on the legal aspects of the case before taking further action.
- (vi) & (vii)—All the Ministries/Departments concerned were addressed immediately on receipt of the Lok Sabha Secretariat U.O. note dated 22nd July, 1974 under reference. Since this information has been asked for the first time, it will take some time to collect the same and have it vetted by the Audit.

3. The information in respect of the Ministry of Information & Broadcasting has already been furnished to the Lok Sabha Secretariat *vide* this Ministry's O.M. of even number dated the 29th|31st July, 1974. It has been decided that the disclosure of information relating to Security Organizations in the Department of Cabinet Affairs, Ministry of Home Affairs and Ministry of Defence would not be in the public interest. As regards the rest of the information, the matter is being pursued further.

4. It would be appreciated that the Ministry of Finance, who have been assigned the coordinating role by the Public Accounts Committee, are doing their best to collect the information from the various sources concerned as expeditiously as possible. Since the information required is very extensive and is to be collected for

various authorities all over the country, some delay is inevitable. However, every effort will be made to furnish the information as quickly as possible.

Sd/-

M. K. NAIR,

Joint Secretary to the Govt. of India.

Lok Sabha Secretariat

(PAC Branch)

Min. of Fin. U.O. No. 12(55)-E(Coord)/73

dated 9-8-1974.

APPENDIX

SUMMARY OF MAIN CONCLUSIONS|RECOMMENDATIONS

S. No.	Para No.	Ministry/ Dept. Concerned	Conclusion Recommendation
1	2	3	4
1	1.7	Railway	<p>The Committee note that the installation of a computer in the Chittaranjan Locomotive Works followed a thorough assessment of the workload by the Central Statistical Organisation and that the requirements of the other production units were also similar. However no job analysis as such was specifically carried out before the installation of computers on the open line railways. The Committee cannot but express surprise at the Railways' failure properly to establish the need for a system before accepting it, since it involved a liability of several lakhs of rupees.</p>
2	1.8	-do-	<p>The Committee note further that the Railway Board have initiated a dialogue with the I.B.M. with a view to exploring the possibility of revision of the current contracts with a view to obtaining terms more favourable to Railways. The Committee would like to emphasise that in the light of the critical analysis made by them in their 127th Report, the Railway Board, while negotiating with I.B.M. will do its best to ensure that a satisfactory new contract emerges as a result.</p>

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I.11

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The Committee note that it has been decided, after a review of the workload etc., to transfer the work of the Mughal-Sarai computer to the computer at the Diesel Locomotive Works which is stated to have some spare capacity, and that notice has been served on the I.B.M. for the return of the Mughal Sarai computer from 1.10.74. In regard to the Northeast Frontier Railway computer, it has been stated that due to serious confrontation with labour, the Railway had to go slow with the extension of computer application. The low utilisation of this computer is also attributable to a comparatively small number of transactions on that Railway. Further the Railways have been making efforts to offer spare computer time to Government and non-Government agencies wherever demand exists. These explanations given by the Railway Board only reinforce the Committee's conclusion that the installation of computers was not preceded by a careful study of the need for going in for them. The Committee desire that the Railway Board should make a fresh re-appraisal of their requirements of the computers to find out if any of these costly machines could be spared without serious repercussions on the working of the Railway concerned. Indeed, as the machines constitute a sizable capital and running expenditure the Railway Board should undertake a regular and frequent review to satisfy itself that the advantages that accrue as commensurate with the expenditure involved.

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I.14

Deptt. of Electronic

The Committee had desired to be informed of the outcome of the study made by the Inter-Ministerial Working Group which had been constituted to go into the reasonableness of prices charged by

I.B.M. for its manufactures. It has been stated by the Department of Electronics that the Working Group had submitted an interim report. On the basis of the analysis of the Financial Statements of IBM and ICL, the Working Group has come to the conclusion that there would be a case for reduction of prices of equipments supplied by these companies and that a detailed examination of the cost structure would be necessary to determine the quantum of reduction in prices that should be effective. This examination was likely to be completed by March, 1975. The Committee suggest that the Working Group should make a thorough analysis of the working of these companies and try to expose all the machinations employed by these companies so that in future the users are not made to pay unwarranted prices for the services rendered and machinery supplied by these companies.

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After examining the installation and utilisation of 14 computers on the Indian Railways the Committee had felt that there was need for a wider probe into the functioning of the IBM and ICL companies who had almost a monopoly in the matter of supply of electronic equipments. The utilisation of the electronic data processing "machines hired or purchased by various Government Departments also called for a deeper study to judge how far the benefit derived out of these machines was commensurate with the expenditure incurred. The Committee had accordingly desired that the

Ministry of Finance should collect and furnish to the Committee detailed information concerning the installation and utilisation of these machines in various Government Offices. Although the Ministry of Finance were requested to collect the requisite information in December 1973, complete and upto date information has not been made available to the Committee till today despite protracted correspondence between the Lok Sabha Secretariat and the Ministry of Finance. The Committee take a serious view of the Ministry's failure to collect and furnish the information called for. Keeping in view the wider ramifications of the purchase or hire of computers etc. from these companies and the unsatisfactory utilisation of these machines as has been revealed by a study of the Railways' computerisation projects, the Committee desire that the Ministry of Finance should immediately set up a committee of experts to examine how far the Government Departments which have incurred huge expenditure on acquiring these costly machines have been able to put them to worthwhile and adequate use.

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