

**PUBLIC ACCOUNTS COMMITTEE  
(1978-79)**

(SIXTH LOK SABHA)

**SEVENTY-FIFTH REPORT**

**IMPORT OF WHEELSETS**

**MINISTRY OF RAILWAYS**

(RAILWAY BOARD)

[Paragraph 11 of the Report of the Comptroller  
and Auditor General of India for the year 1975-76,  
Union Government (Railways)]



*Presented in Lok Sabha on :*

*Laid in Rajya Sabha on*

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85	S.No.4	12	decline	declined
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### PART II\*

Minutes of the sittings of PAC held on :

14-10-1977 (FN)

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# PUBLIC ACCOUNTS COMMITTEE

(1978-79)

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1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri T. R. Ghai—*Senior Financial Committee Officer.*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Seventy Fifth Report of the Public Accounts Committee (Sixth Lok Sabha) on paragraph 11 of the Report of the Comptroller & Auditor General of India for the year 1975-76, Union Government (Railways) relating to import of Wheelsets.

2. The Report of the Comptroller & Auditor General of India for the year 1975-76, Union Government (Railways) was laid on the Table of the House on 13 June 1977. The Public Accounts Committee (1977-78) examined this paragraph at their sittings held on the 14 and 15 October 1977. The Committee, however, decided on 19 April 1978 that the consideration of the draft Report may be postponed and the same may be placed before the Committee (1978-79). The Committee (1978-79) considered and finalised this report at their sitting held on 17 August 1978. The Minutes of the sittings form Part II\* of the Report.

3. A statement containing conclusions/recommendations of the Committee is appended to this Report (Appendix II). For facility of reference these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the commendable work done by the Chairman and Members of the Public Accounts Committee (1977-78) in taking evidence and obtaining information in this Report.

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

6. The Committee would also like to express their thanks to the Chairman and Members of the Railway Board for the cooperation extended by them in giving information to the Committee.

NEW DELHI;  
August 28, 1978  
Bhadra 6, 1900 (S)

P. V. NARASIMHA RAO,  
Chairman,  
Public Accounts Committee

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## REPORT

### IMPORT OF WHEELSETS

#### Audit Paragraph

1.1. Wheelset is a wagon component supplied by the Railways to the wagon builders for manufacture and supply of wagons. The Railways procure their requirements of wheelsets partly by import and partly from indigenous sources (M/s Tata Iron and Steel Company and the Hindustan Steel Limited, Durgapur). During 1975-76 the Railways incurred additional expenditure of Rs. 1.32 crores in procuring 9,144 wheelsets from a French firm. Besides, the estimation of production of wagons was on the high side. This led to additional procurement of 9,144 wheelsets costing Rs. 10.63 crores from a Japanese firm, which resulted in excessive inventory. The purchases were financed through IDA credits. These cases are dealt with in the succeeding paragraphs.

#### *Purchase from French firm*

1.2. For the requirements of wheelsets for 1974-75, global tenders were invited by the Ministry of Railways (Railway Board) in September 1973 for 11,430 (20.3 tonne roller bearing) wheelsets with an option to increase the quantity by 30 per cent.

1.3. The lowest acceptable tender was of a French firm at FF 2168 (Rs. 4,022.26) f.o.b. and FF 2600 c. & f. (Rs. 4,823.75) per set. The French firm offered to commence delivery at the rate of 1,200 wheelsets per month beginning from 3 months of the placement of the order and complete the supply within 13 months. It also offered to supply 30 per cent of the optional quantity, if ordered within the same period of 13 months. In response to the enquiry of the Ministry of Railways (Railway Board) as to what extent it could re-schedule deliveries making them quicker and in large instalments, the firm offered delivery commencing within 2½ months of placement of order instead of 3 months as quoted earlier. It further stated that if the order was placed for the total quantity including 30 per cent optional quantity it would be able to maintain delivery at the rate of 1,200 sets per month for the first two months and thereafter at the rate of 1,500/1,600 sets per month and thus complete the supplies within 13 months.

1.4. In January 1974 the Tender Committee recommended placement of the order on the French firm for 11,430 wheelsets with an option to increase the quantity by 30 per cent. However, in March 1974 before the order was placed, it was felt that Rumanian firms

might be interested in supplying this it on rupee payment basis. The French firm had been asked to extend the validity of its offer on five occasions, the last extension expiring on 27th March 1974. Pending the possibility of supplies from Rumanian sources being explored, an order was placed on the French firm on 26th March 1974 for 50 per cent of the tendered quantity, namely 5,715 wheelsets with the option to order an additional 30 per cent of the tendered quantity, namely, 3,429 wheelsets during the currency of the contract. The firm was also asked to keep its offer open for the balance 50 per cent of the tendered quantity for four months. According to the Ministry of Railways (Railway Board) this was done to safeguard Railways' interests in case supplies from Rumania were eventually found to be costlier. A formal contract was placed on 11th April 1974. In terms of the contract the additional quantity of 5,715 wheelsets (50 per cent of the original tender) was to be ordered by 25th July 1974 and the optional quantity of 30 per cent could be ordered before the end of November 1974.

1.5. While accepting the contract on 22nd April 1974, the firm stated that it was agreeing to the contract conditions about ordering for additional quantity (5,715 numbers) and the optional quantity of 30 per cent (3,429 numbers) of wheelsets to help the Indian Railways as one of its valued customers. It pointed out that no manufacturer could hold his prices firm from October 1973 to July 1974 taking into consideration the economic and financial crisis and the energy cost of production of its steel which had nearly doubled during this period. It, therefore, hoped that the Railway Board would arrive at an earlier decision than mentioned in the contract in respect of the balance and optional quantities of 5,715 and 3,429 wheelsets respectively as per relevant clauses of the contract and if possible, before the middle of June 1974 so that it might reserve Railways' quantity in its production schedule to enable it to effect deliveries already arranged.

1.6. On 5th June 1974 the Railway Board became aware that the Rumanian firms were not in a position then to supply the wheelsets required by the Indian Railways and action was initiated by the middle of June 1974 to order the balance quantity of 5,715 wheelsets on the French firm. On 1st July 1974 the French firm informed the Railway Board that it had requested for a decision on the order for extra quantities being taken well before 25th July 1974. It wanted a definite reply by return in respect of ordering of additional quantities in this contract so that raw materials could be immediately ordered. It further pointed out that in view of increase in costs of raw materials and labour, it would not be able to hold the



price contract for a long period unless a positive communication of Railways' intention was received. It was decided on 22nd/24th July 1974 to procure the additional wheelsets (5,715 sets) at the existing contract price from the French firm. An order was placed by telex on 24th July 1974 and a formal amendment to the contract was issued on 26th July 1974.

1.7. The firm informed the Railway Board on 26th July 1974 that the order by telex was received by it on that date. It declined to accept the order for the additional quantity on the ground that the acceptance of the contract was conditional to the Railways' ordering the additional and optional quantities before the middle of June 1974 as per its covering letter of 22nd April 1974, which according to the firm, without doubt, modified its acceptance of the contract condition. The firm, however, offered to execute the order at 35 per cent price increase in case the same was agreed to before 1st August 1974. Again on 1st August 1974, the firm reiterated that the Railways' letter of acceptance exercising the option had been received after the expiry of the option.

1.8. After obtaining legal advice, the Railway Board informed the firm on 31st July 1974 that the additional order for 5,715 wheelsets had been placed within the stipulated date i.e., 25th July 1974 and that the firm was bound to execute the additional order at the price stipulated in the contract. The firm was further advised on 6th September 1974 that in the event of its failure to make supplies it would be open to the Railway Board to make risk purchase and that the firm would be liable for liquidated damages and extra expenditure. In October 1974 the firm repudiated its liability for supplying the additional wheelsets ordered in July 1974 and further maintained that in consequence the option clause in the contract enabling the Railway Board to order additional 30 per cent of the tendered quantity was null and void.

1.9. In November 1974, the Railway Board invoked the option clause of the contract to order 30 per cent of the number tendered, namely 3,429 wheelsets.

1.10. In December 1974, the Railway Board considered floating a risk purchase tender for procurement of 9,144 wheelsets (5,715 additional wheelsets plus 3,429 wheelsets against 30 per cent option) to sustain the wagon building programme for 1974-75 and to maintain the continuity of wagon manufacture in 1975-76. The Legal Adviser of the Board advised in April 1975 that, while the Railway Board could legally terminate the contract and resort to risk purchase of stores not delivered by the firm within the stipulated

period, both in regard to the additional and optional supplies ordered in July 1974 and in November 1974 respectively, it would be advisable to arrive at a settlement with the firm inasmuch as there was no arbitration clause in the contract, the firm was carrying on business in a foreign territory and, consequently, litigation proceedings and execution of a decree against the firm would be beset with considerable difficulty. The Railway Board, however, decided, in May 1975, to proceed with the risk purchase and face the difficulties in realisation of the extra expenditure from the foreign firm. On 12th May 1975 global tenders were invited for fresh supply and the orders for 9,144 wheelsets were cancelled on 29th May 1975 at the risk and cost of the firm.

1.11. Before the global tenders were opened, the French firm, on 21st June 1975, represented to the Railway Board that its inability to supply the wheelsets at the price stipulated in the contract of April 1974 was due to unprecedented inflation resulting in steep rise in the cost of raw material and labour which, it pleaded, should be deemed to be "Force Majeure". It offered to make supplies provided the price (FF 2168) stipulated in the previous contract was increased by half of the difference between the contract price and the lowest f.o.b., price to be received against the forthcoming tender, subject to a maximum ceiling of 35 per cent and a minimum of 25 per cent.

1.12. The lowest tender received in response to the global tender was from a Japanese firm, Yens 2,61,000 (Rs. 7,457.14) f.o.b., per wheelset. The difference between the quotation of the Japanese firm and the price contracted for with the French firm in April 1974 worked out to Rs. 2,892.93 per set on the basis of the exchange rate ruling on the date of opening of the tender, namely, 23rd June 1975. Half of this difference amounted to an increase of 31.69 per cent over the contract price of April 1974 with the French firm.

1.13. At this point of time the Railway Board considered it expedient to arrive at a settlement with the firm. Orders were, therefore, placed for 9,144 wheelsets in August 1975 on the French firm at a price of FF 2855 (Rs. 6,010.68) f.o.b., per set which entailed an additional expenditure of Rs. 1.32 crores as compared to the contract price of April 1974.

1.14. The Railway Board stated (November 1976) that due to the energy crisis (which occurred according to the Railway Board sometime in December 1973) there was world-wide inflation and prices rose very steeply and that the rate allowed to the French

firm on the basis of the negotiated settlement in August 1975, was 31.69 per cent lower than the then prevailing market price.

1.15. It may be mentioned that the French firm which tendered in October 1973 had kept its offer open till 26th March 1974 (by agreeing to five extensions to the validity of its offer) when the Railway Board conveyed acceptance of the offer. In its letter of 22nd April 1974 accepting the contract the firm mentioned inflation, increased costs and the energy cost of production of its steel which had nearly doubled in that period. It, however, agreed to maintain the same price for the additional and optional quantities of wheelsets as per the contract but hoped for placement of orders by middle of June 1974. The firm also requested the Railway Board on 1st July 1974 for a reply in respect of ordering of additional quantities in the contract, so that raw materials could be ordered immediately, without asking for a price increase due to inflation. The Railway Board was aware by 5th June 1974 that no Rumanian firm was interested in supplying this item. But the placement of the order on 24th July 1974, a day before the last date, namely, 25th July 1974, for its placement and which, according to the French firm, was received by it on 26th July 1974 resulted in additional expenditure of Rs. 1.32 crores in the re-purchase of the wheelsets in August 1975 from the French firm.

1.16. It may also be mentioned that a Japanese firm on whom an emergency purchase order for 4 thousand wheelsets had been placed on 11th April, 1974 (at the same time order for 5,715 wheelsets had been placed on the French firm) had supplied the wheelsets at the same price as in an earlier contract of 1973 and which was lower than that of the French firm (Rs. 4,005.90 per set as against Rs. 4,022.26 of the French firm).

#### **Purchase from Japanese firm**

1.17. The matter relating to the placing of orders for wheelsets on the French firm had been under consideration of the Railway Board since January 1974. In February 1974 it was considered by the Railway Board that even if the orders were placed on the French firm by the middle of March 1974, supplies of wheelsets from the French firm could not be expected to reach the wagon builders until September 1974 due to longer transit time required for supplies from the Continent. It was also assessed that during April 1974 to August 1974 supplies of wheelsets would be available from the Hindustan Steel Limited at the rate of only 500 sets per month as against the requirement of 1,430 sets per month. This

would result in stabling of a large number of wagons. Consequently, an emergency purchase order for 4 thousand wheelsets was placed on a Japanese firm on 11th April 1974. It was treated as a repeat order and the price payable was the same as in an earlier contract of January 1973, namely, Yens 135,800 (Rs. 4,005.90) per set stipulating delivery to commence from July 1974 at the rate of 500/1000 sets per month. The shipments against this contract were completed by January 1975, except for 60 wheelsets which were shipped in March 1975.

1.18. In July 1975, while deciding to place orders for 9,144 wheelsets on the French firm *vide* paragraphs 1.12 and 1.13, it was also decided to procure the same number of wheelsets, namely, 9,144 from Japan to meet the requirements of 1976-77 wagon building programme. Orders were placed on the same Japanese firm in August 1975 on the basis of the tender received from it in response to the global tender floated in May 1975 for risk purchase. The price per set contracted for was Rs. 11,620 (landed price). The deliveries were to be completed by May 1976.

1.19. The events leading to the ordering of 9,144 wheelsets for the requirements of 1976-77 are briefly mentioned below:

In discussions held earlier with the Planning Commission during December 1974, the Railway Board asked for Plan allocations for procurement of a minimum of 10 thousand wagons during 1975-76. The Planning Commission, however, felt that the Railways had already built up capacity of rolling stock to move a traffic of over 225 million tonnes and as such agreed to the acquisition of only 5,500 wagons (all types) during 1975-76. The Ministry of Railways (Railway Board) submitted a memorandum for decision of the Cabinet in April 1975 requesting for additional allocation of Rs. 33 crores to sustain the wagon production of about 11,500 numbers in 1975-76. In July 1975 the Planning Commission agreed for additional funds of Rs. 25 crores during 1975-76 for maintaining wagon production during 1975-76 at the level of 11,500 numbers as in 1974-75. The Railway Board, in May/June 1975, without consulting the Planning Commission, assumed that the wagon production in 1976-77 would also be 11,500 numbers as projected for 1975-76 in April 1975 which was approved by the Planning Commission in July 1975. Further the Tender Committee assumed in June 1975 a level of production of 14,500 four-wheelers during 1976-77 requiring procurement of 18,806 wheelsets

and justifying placement of order for 9,144 wheelsets on the Japanese firm over and above the order for 9,144 wheelsets on the French firm.

1.20. The table below indicates the anticipated wagon building programme, the wheelsets required therefor and the wheelsets to be imported, taking into account the indigenous availability of 5,400 sets per year (12X450 per month) from the Hindustan Steel Limited (HSL) and 675 sets from M/s. Tata Iron and Steel Company (TISCO).

Estimate of		Availability of wheelsets			Difference of column	
Wagon production* period number (20-3 tonne of wagons*)	requirements of wheelsets	opening stock (on 1st April 1975) and dues from earlier imports	likely indigenous supplier) from HSL & TISCO	total	5 and 2 to be met by import.	
1(a)	(b)	2	3	4	5	6
(Estimation made in May-June, 1975)						
1975-76	11660	17827@	5784	5400 675 (TISCO)	11829 or say	6000
1975-77	11660	14662	..	5400	5400	8862 14862
TOTAL (Estimation made by Tender Committee in June 1975)						
1975-76	11660	17827@				19404
1976-77	14500	18805*				4542

@includes buffer stock of 3,565 wheelsets.

\*in terms of four-wheelers

Increase in import requirements indicated by Tender Committee.

1.21. The estimations of the requirements of wheelsets for 1976-77 as made by the Tender Committee in June 1975 were on the high side for the reasons mentioned below:

- (a) Wagon production estimates at a level of 14,500 numbers during 1976-77 were not warranted on the basis of funds availability, as at that stage the funds availability even for 11,500 numbers could not be known. This resulted in boosting up the import requirements of wheelsets by 4 542 sets *vis-a-vis* the assessment made earlier in May--June 1975 assuming wagon production of 11,660 numbers

for 1976-77. Actually the budget provision for 1976-77 was for 9,200 wagons only.

- (b) The estimates for 1975-76 included provisioning of a buffer stock of 3,565 wheelsets; no reduction in the element of buffer stock was made by a reduction in the number of wheelsets planned for acquisition in 1976-77 even though the procurement action had been advanced by 4 months (normally for procurement of the requirements for 1976-77 tenders would have been floated around October 1975 while on this occasion orders had been placed in July-August 1975).

1.22. The comparative prices of wheelsets procured from the three suppliers are given below:

(i) Indigenous (HSL)	Rs. 3,580 per set (November 1975)
(ii) French firm	Rs. 9,7000 per set (landed price-order of July 1975).
(iii) Japanese firm	Rs. 11,620 per set (landed price-order of July 1975).

1.23. A review of the stock and order position made by the Railway Board in November 1975 disclosed that the requirement of wheelsets for six months from October 1975 to March 1976 was 9,142 (including 3,176 as buffer stock) and for 1976-77 was 12,704 sets making a total requirement of 21,846. As against this, the availability was 28,181 sets during this period (18,379 from imports and 8,100 sets from the HSL at 450 sets per month plus 1,702 wheelsets in stock). In November 1975 the HSL informed the Railway Board that it would increase its supplies to one thousand sets as against 450 sets per month. The Railways would, therefore, be left with surplus wheelsets in 1976-77 to the extent of 6,335 in addition to the buffer stock of 3,176 assuming that the HSL would continue to supply at the previous rate of 450 wheelsets per month and 16,236 if it stepped up its supplies to one thousand sets per month as promised. Consequently, in November 1975 the Railway Board approached the HSL to peg the supplies of indigenous wheelsets at 450 sets per month, as supplies at higher level would result in a sizeable number of imported wheelsets remaining unutilised during 1976-77. The HSL was also requested to regulate the supply of 20.3 tonne wheelsets at the committed level of 450 sets per month and utilise its balance capacity for other types of wheelsets and take up manufacture of loose wheels and axles for wagons which

would otherwise have been imported, even though according to the HSL the production of loose wheels and axles was likely to lead to idle labour and under-utilisation of machinery. The HSL, however, advised the Railway Board in November 1975 to curtail its imports from abroad.

1.24. In view of the prospect of heavy unutilised stock and the lower price of indigenous wheelsets, the Railway Board approached the French and the Japanese firms in December 1975 for partial cancellation of the orders on them (3,644 or more sets on the French firm and 6,444 or more sets on the Japanese firm). Both the firms, however, declined. The French firm completed the supplies by the due date namely, May 1976. The Japanese firm had manufactured 6,028 sets by that date and at the request of the Railway Board agreed to postpone supply of the balance 3,116 wheelsets to March-May 1977 instead of in May 1976. The Railway Board stated (January 1977) that it was still continuing its efforts to cancel the unsupplied quantity of 3,116 wheelsets.

1.25. Consequently, the ordering of 9,144 wheelsets at a cost of Rs. 10.63 crores (including foreign exchange of Rs. 6.82 crores) in August 1975, based on an estimate of higher level of wagon production for 1976-77 than that for the previous year and in advance of the normal schedule of procurement resulted in excessive inventory of 6,335 wheelsets over and above the buffer provision of 3,176 sets as disclosed in the review made by the Railway Board in November 1975. This is based on supplies from the HSL being taken at 450 wheelsets per month. However, the supplies from the HSL exceeded the estimates and were 8,350 and 6,040 (estimated) wheelsets during 1975-76 and 1976-77 respectively resulting in further inventory build-up. The excessive import of wheelsets also entailed an extra expenditure of about Rs. 7.35 crores on the basis of indigenous price of Rs. 3 580 per set as in November 1975.

1.26. The Railway Board stated (November 1976) that a review of the availability and requirement of 20.3 tonne wheelsets made on 1st September 1976 disclosed a likely surplus of 4,297 wheelsets over and above the buffer stock of 3,500 wheelsets on 1st April 1977. This, however, does not take into account 3,116 wheelsets included in the order on the Japanese firm, deliveries of which have been deferred beyond April 1977.

1.27. The Railway Board further stated (November 1976) that it estimated the total number of wheelsets to be imported for meeting the requirements upto 31st March 1977 as 19,400 sets, taking into account a production target of 11,660 wagons in 1975-76 and 14,500

wagons in 1976-77 and a buffer stock of 3,565 wheelsets, and that, orders were placed there-against only for 18,288 wheelsets i.e., 1,112 sets less than the estimated requirement. The Board also stated that, as global tenders opened in June 1975 were on hand, it was considered advisable to finalise the same to cover the requirements of 1976-77 for which ordinarily tenders would have been floated in October 1975. It stated that this decision was taken to avoid any increase in rates as prices were on the increase and there was no indication that the HSL would be able to step up supplies in excess of the committed level of 450 wheelsets per month.

1.128. The Board stated (January 1977) that it had already agreed to raise the price of wheelsets supplied by HSL with effect from 1st April 1976 to about Rs. 4,530 per set. Even if this enhanced rate is taken into account for supplies from the Japanese firm after 1st April 1976, the extra expenditure would be about Rs. 7 crores.

1.29. It is noticed that the supplies from the HSL picked up from June 1975 onwards and during the 6 months period from April to September 1975 the HSL had supplied, 4,068 wheelsets i.e., an average of 678 sets per month, supplies during October 1975 being about 900 wheelsets. In November 1975, the HSL stated that it was expecting to manufacture 1,200 wheelsets per month and sustain and improve it further.

[Paragraph 11 of the Report of the Comptroller and Auditor General of India for the year, 1975-76, Union Government (Railways)]

1.30. At the instance of the Committee, the Ministry of Railways have furnished the following statement which indicates in chronological order the movement of the file relating to acceptance of the tender of the French firm by the Tender Committee on 10 January 1974 till the date the orders were actually placed on the French firm:

Sl. No.	Particulars	Date
1	Tender Committee recommended that contract for 11430 Nos. with option to order additional 30 per cent may be placed on M/s. Creusot-Loire, France	10-1-1974
2	File sent by the Board to Minister of Railways	14-1-1974



Sl. No.	Particulars	Date
3	M. R. minuted that in view of the changing pattern in the price of this store in the international market, would it not be advisable to go in for more quantity? He also directed for extension of validity of the offer by three weeks.	13-2-1974
4	Firm was requested to extend the validity of the offer upto 9-3-1974. MR's attention was drawn to option clause under which quantity should be increased by 30 per cent MR was requested to accord his approval to the recommendation as wheelsets were urgently required.	15-2-1974
5	M.R. ordered for a second look . . . . .	15-2-1974
6	File resubmitted to M. R. recommending acceptance of the Tender Committee's recommendations.	16-2-1974
7	M. R. ordered that there is likely to be a gap in supply which will need emergent purchase. He desired a review as to the quantity to be ordered against the tender and against emergent purchase.	5-3-1974
8	Firm was again asked to extend the validity of their offer upto 30-3-1974	6-3-1974
9	Papers were again submitted to M. R. for approval for placing the order.	13-3-1974
10	M. R. directed that in view of the fact that Rumanian were showing interest in supplying wheelsets against rupee payment contract for 50 per cent quantity (i.e. 5715 Nos.) may be placed on the French firm).	23-3-1974
11	Board decided to place order for 50 per cent of the tendered quantity (5715 Nos.) retaining the option to order additional 50 per cent of the tendered quantity during 4 months by which time Rumania's rate would be known.	26-3-1974
12	Cable order for 5715 Nos. wheelsets placed on the French firm with option to keep the offer for the balance 50 per cent open for 4 months i.e., 25-7-1974 and for additional 30 per cent during the currency of the contract.	26-3-1974
13	Formal contract placed on M/s. Creusot- Loire, France . . . . .	11-4-1974

1.31. It is seen from the above that although the Tender Committee made its recommendation in regard to the acceptance of the offer of M/s. Creusot-Loire, France on 10-1-1974, the formal contract was placed on the firm on 11-4-1974. The Committee asked why could not a decision be taken earlier and whether a quick and timely decision was not necessary keeping in view the need for wheelsets of the wagon builders. The Ministry of Railways have in a note, stated:

"In January 1974 the Tender Committee recommended placement of the order on the French firm for 11,430 wheelsets with an option to increase the quantity by 30 per cent.

The Tender Committee's recommendations duly approved by the Board was forwarded to the Minister of Railways on 14-1-1974. On 13-2-1974, the Minister of Railways queried as under:

'In view of the Changing pattern in the price of the stores in the international market, would it not be possible to go in for more quantity?'

This was examined on 15-2-1974 by the Board who requested Minister of Railways to approve of the procurement as recommended by the Tender Committee. It was stated that the option clause as provided for by the Tender Committee would be utilised, keeping in mind the international prices. Minister of Railways, however minuted on 15-2-74 that '... we should have a second look so as to derive the maximum advantage to the Railways keeping the price trends, our anticipated requirements and plan funds in view'.

The file was resubmitted to the Minister of Railways on 16-2-1974. The extended validity of the offer was expiring on this date. Board had observed that '... I would therefore, request for M.R's consideration that the order may be placed as recommended by the Tender Committee so as to make sure that the contract for the estimated requirement is placed within the validity period, taking advantage of the price offered'.

The Minister of Railways, however, observed on 5-3-1974 that 'there is likely to be a gap of 3/5 months between the requirement of the stores and its supplies. This is bound to adversely affect delivery of wagons. I understand that placement of another emergent order is under consideration so as to ensure quick supplies to fill in the gap. Keeping in view the proposed placement of the emergent order, I would like that the firm should be asked to rescheduled their deliveries by making the same quicker and in larger instalments. In this background I would like the Board to review as to what should be the quantum of supplies against this contract and against the emergent supplies.'

The matter was reviewed by the Tender Committee and placement of order for the tendered quantity i.e., 11,430 Nos. together with an option for additional 30 per

cent quantity to be ordered at an appropriate time, was recommended by the Tender Committee and with the Board's approval the file was submitted to Minister of Railways on the 13th March, 1974.

At this stage Minister of Railways decided (on 23-3-1974) that order should be placed only for 50 per cent quantity and for the remaining 50 per cent the possibility of getting these wheels from Romania should be explored. Romanian firm was asked to submit a quotation. To protect Railway's interests while communicating acceptance to the French company for the half quantity viz. 5715 Nos. an option to order additional 30 per cent viz. 3429 was retained and they were asked to keep their offer open for the balance 50 per cent quantity for 4 months, i.e. upto 25th July, 1974.

In view of the urgent requirement of these wheelsets, various queries made by the competent authority were promptly answered and file resubmitted for appropriate order. In spite of this the decision could be taken only in March, 1974."

1.32. The Committee were informed during evidence that since this tender was worth more than one crore rupees, it had got to be approved by the Minister. As to the procedure followed in such cases, the Chairman, Railway Board; stated in evidence:

"Our procedure, is after the Tender Committee recommends it, it goes to the concerned Member, Finance Member and the Chairman. In this case, the Chairman sent it to the Minister on 14th January (1974)."

1.33. On being informed that the file was returned by the Minister on 13-2-1974, i.e., after a month, after raising some queries, the Committee enquired whether the Minister had been reminded to expedite the case. To this, the Chairman, Railway Board, replied:

"Normally, we do not write to the Minister. The Minister must have been orally reminded."

1.34. The Committee desired to know whether there was anything in the papers put up to the Minister which could explain the basis on which the Minister had queried that "In view of the changing pattern in the price of the stores in the International

market, would it not be possible to go in for more quantity". The Chairman, Railway Board, stated in evidence:

"We have no information on the files."

1.35. In reply to a question whether this was Minister's own idea, the witness stated:

"I presume it to be so. There is nothing in the files in this regard...During the oil crisis in October, 1973, the prices were spiralling and that may be the reason for this query."

1.36. When the Committee asked, in view of the fact that the validity period was to expire on 29 January, 1974, what specific steps had been taken by the Railway Board to see that the file was disposed of at the earliest, the Chairman, Railway Board, has replied:

"All that we would do is to remind the Special Assistant of the Minister that the file is with him."

He added:

"Practically every day the Director of Stores used to remind him that some decision should be taken. Normally such requests are not made in writing."

From the chronological sequence as given in para 1.30 above, it would be seen that after 13-2-1974, when the Minister had raised the first query, the relevant file moved between the Railway Board officials and the Minister several times and ultimately on 23-3-1974, the Minister directed that in view of the fact that Rumanians were showing interest in supplying wheelsets against rupee payment, contract for 50 per cent quantity (i.e., 5715 Nos.) might be placed on the French firm. The Minister had then minut-ed as under on the relevant file:

"I had come across a letter from Rumania Consulate, who have overlooked this tender, showing their willingness to supply this store.

Now since there is a possibility of our getting wheelsets against Rupees, we should place orders only for 50 per cent against original French offer. This would enable us to meet our immediate requirements and at the same time help us in conserving foreign exchange in case we can strike an advantageous bargain with Rumanians.

The fact that the French are willing to expedite their deliveries and the lifting of oil embargo, I am sure, are factors which show that the prices are not going to firm up.'

1.37. During evidence the Committee enquired whether there was anything on the file by which the Minister had come to the conclusion that there was a possibility of getting supplies from Rumania. The Chairman, Railway Board stated:

"There has been no wheel supply from Rumania excepting a letter which we have had from the Trade Representative (of Rumania) to participate in the supply of wheels."

He added:

"We knew that they never participated in our tenders, but the Minister wrote on the file that we should find out from either of them. Then on 28th May, 1974 our Embassy informed us that the Rumanian firm were not interested in supplying wheels of this size."

1.38. Giving details of the letter received from the Trade Representative of the Socialist Republic of Rumania in India, the Ministry of Railways have, in a note stated:

"A letter dated 15-3-1974 from the Trade Representative of the Socialist Republic of Romania in India addressed to the Director, Railway Stores, Railway Board was received on 20-3-1974 from the Special Assistant to the then Minister of Railways. In this letter the Trade Representative had regretted that they had overlooked the advertisement of the tender and that they were very anxious to quote against this tender on the basis of payment in Indian Rupee. They requested that we may wait for a few days to enable them to submit the quotation.

In this letter there was no mention of the firm which were in their view and no communication was received from any other source. However, subsequently, Rumanian Trade Representative in India, New Delhi, on receipt of tender documents from the Railway Board forwarded the same to M/s. Mecanoexport Import Bucharest."

1.39. During evidence the Committee pointed out that the receipt of the letter addressed to the Director, Railway Stores,

through the Minister appeared very unusual. To this, the Chairman Railway Board, replied:

“The Counsellors do see the Minister and hand over letters.”

1.40. As to the action taken following receipt of the letter from the Trade Representative of Rumania, the Member Mechanical stated in evidence:

“On 27 March, a copy of the tender was sent to the Trade Representative of Socialist Republic of Rumania requesting them to submit their quotations early. They informed us that they had written to their principals for sending quotations.

Under our letter of 17th April, the Trade Representative was requested to submit the quotation as early as possible, preferably by 30th April, 1974. Since the quotation was not received from them within the due date, the Trade Representative were again requested to take up the matter with their principals and see that the quotation is definitely submitted by 15th May, 1974.

Simultaneously, our Embassy at Bucharest was asked to contact the firm and ask them to submit the quotation through their Trade Representative in India. The Embassy was also asked to submit a report on the firm's capacity to manufacture and supply the wheels required by us. Neither the quotation nor the acknowledgement has been received from the Trade Representative.

Again, *vide* our letter dated 29th May, 1974, they were requested to ensure that the quotation is sent to us by 10th June, 1974, the latest, failing which we will presume that they are no longer interested in the supply of wheels.

Our Embassy also had been reminded telegraphically. Then, the reply came. The Second Secretary to the Embassy of India discussed the matter with them. The relevant extract of the report is:

“This firm does not at present manufacture wheels of the type required by you. Hence, they are not in a position to quote their tender’.”

1.41. The Committee enquired, since it was known that the Rumanian firm had never supplied such type of wheels to India,

what was the use of making an enquiry from them. A representative of the Railway Board stated:

“Rumania is one of the advanced countries. They have a well-established railway. They make wheels for themselves. We were not in a position to know whether they would be able to export the wheels.”

The Chairman, Railway Board added:

“When the Minister gave an order, we sent a document to the Trade Commissioner. I don't think on official side, we could have taken any other action on it.”

1.42. The Committee desired to know whether the Railway Board knew that the Rumanian firm had supplied these wheels to any other country. The Chairman, Railway Board, stated:

“That we have no idea because they have not participated in the past. In fact, the Minister who was in the foreign trade knew about it. As officials, we cannot go over the Minister.”

1.43. When asked whether during the period correspondence was being exchanged with Rumanian firm and extension was sought from the French firm for placing the order for the balance quantity, the Chairman, Railway Board stated:

“We had asked the French firm to keep the offer open for four months when we placed an order for 50 per cent of the quantity; that is upto July . . . we told them to hold their offer for the remaining 50 per cent in abeyance upto 25-7-74.”

1.44. The Committee were informed that the letter dated 28-5-74 from the Indian Embassy in Bucharest informing about the inability of the Rumanian firm to supply wheels was received in the Railway Board on 5-6-1974. Action was then initiated and the papers were resubmitted on 7-6-1974, suggesting that the order on the French firm might be placed. The notings on the relevant file reads as under:

“In view of our embassy report, there is no possibility of getting wheelsets from Rumanian source and therefore there does not appear to be any need to wait till 10th June, the target date for submission of their quotation. We may exercise our option and order the remaining 50

per cent quantity, that is, 5715 wheels also on the French firm who were the lowest amongst 6 bidders who quoted for this item on global tender GP72. After placing an order, we will advise the IDA so that there is no impediment for IDA financing this option. The Railway Board has represented to the trade representative in India because there was no reply at all. Finally, we have to give a warning either you reply or we will take it that you are not interested."

1.45. It is seen that the case had been put up to the Minister on 18-6-1974 and the Minister had returned the file on 22-7-1974 with the following note:

"I have no objection to our acting in accordance with the proposition at (5 above). However, I came across a news item in the Economic Times 2/3 days ago that there is general recession in the New York market. In this background would it not be advisable to go in for fresh tender? I think we should."

1.46. While explaining the gap between the date the file was put up to the Minister and the date on which the file was returned by the Minister, the Chairman, Railway Board, informed the Committee during evidence that in between two written reminders had been sent to the Minister. The reminder dated 3-7-1974 read as under:

"In contract No. 74|RSF|962|9 dated 11-4-1974 placed on M|s. Creusot-Loire, France, option was retained to order additional 5,715 Nos. 20.3 tonne wheelsets at the same rate, namely, FF 2,168 per Wheelset. This option is available upto 25-7-1974. This option had been retained to explore the possibility of obtaining wheelsets in Rupee payment from Rumania, but lately our Embassy in Bucharest has advised that the Rumanian firm is not in a position to supply these type of wheelsets at present. Therefore, in file No. 73|RSFP|962|13 it was proposed that the option may be exercised. This proposal had been approved by the Board and was sent on 18-6-1974 to M.R. for his approval. It may also be pointed out that in April, 1974 Ministry of Finance and the World Bank had approved of ordering additional 5,715 Nos. on the French firm.



As the period for exercising the option is nearing at hand, SA|MR is requested to obtain M.R.'s approval.

\* \* \* \*

We may exercise the option well in time say by middle of this month if not earlier so that the communication reaches the firm within the option date. The decision may kindly be expedited."

\* \* \* \*

1.47. The second reminder sent to the Minister of Railways on 15-7-1974 reads as under:

"In contract No. 74|RSF|962|9 dated 11-4-1974 placed on M|s. Creusot-Lorie, France, option has been retained to order additional 5,715 Nos. 20.3 tonne wheelsets at the same rate, namely, FF2, 168 per wheelset. This option is available upto 25-7-1974. I.D.A. have been critical of our placing order only for the 50 per cent quantity and have, in fact, asked that the order for the remaining 50 per cent may also be placed on the French firm. They have further stated that unless order for the full tendered quantity was placed on the French firm, they would be unable to finance the emergency purchase of 4,000 wheelsets made from M|s. Sumitomo Metal Industries, Japan. Ministry of Finance have also stated that they would not be able to provide free foreign exchange to finance the emergency purchase of 4,000 wheelsets.

Board have approved of placement of additional order for 5,715 wheelsets on the French firm by exercising the option and the file has been submitted to M. R. on 18-6-1974 for his approval. SA|MR is requested to obtain M.R.'s approval early so that option may be exercised within the target date to avoid any possible complication as regards the financing of emergency purchase already made."

1.48. After receipt of the file back from the Minister on 24-7-1974, the Railway Board sent the following Telex on 24-7-1974 to the French firm:

"In exercise of the option retained in clause 6(i) of contract No. 74|RSF|962|9 dated 11-4-1974 additional quantity of five thousand seven hundred and fifteen Nos. 20.3 tonne wheel-sets is hereby ordered on you on the

same price terms and conditions. Formal amendment to the contract shall follow."

1.49 In response to this Telex, the firm sent the following Telex dated 26-7-1974 expressing their inability to accept the order for the additional quantity:

"Your Telex dated 24|25-7-1974 only received on 26th (stop) contract acceptance was conditional on your ordering under clauses 6|1 and 6|11 before middle of June as per our covering letter of 22nd April which without doubt modify."

1.50. Extracts from the further correspondence exchanged between the Railway Board and the French firm in regard to the placing of order for additional quantity of 5,715 wheelsets are given below:

*"Railway Board Telex dated 31-7-1974*

"Surprised to note contents of your Telex of 26th July. Our option for the purchase of additional quantity of 5,715 numbers contained in our Telex dated 24|25th July, 1974 was exercised within the target date of 25th July, 1974 mentioned in clause 6(i) of the contract executed between the parties. Your letters of 22nd April and 1st July, 1974 cannot prevail against the said contract. Therefore, we request you to execute the order for the additional quantity of 5,715 numbers which you are contractually bound to supply."

*Letter No. MTPL|PS-MVDP dated 1-8-74 from the French Firm.*

"We confirm having received only on July 30th your letter of July 26th, 1974 exercising the option under clause 6(i) of the contract. Kindly note that your signed letter of acceptance exercising the option has been received after the expiry of the option. In these circumstances kindly please excuse us if we consider it not binding on us. We further refer you to our two previous letters of 22nd April and 1st July, 1974, wherein we had specifically called your attention to clause 6(i) and 6(ii) which have been ignored by you.

We have also received your telex of July 31st, the entire contents of which are unacceptable to us, for the reasons stated in the above paragraph and in our telex of July

26th. Obviously we cannot start production of the additional quantity of 5715 until a fresh agreement is reached with you about the price and deliveries of these supplies.

However to help you out, and as gesture of goodwill we are ready to discuss with you, with a delivery which will be subject to our being able to procure the necessary raw materials at the appropriate time."

1.51. As is evident from the Audit paragraph the Railway Board became aware on 5th June, 1974 that the Rumanian firms were not in a position to supply the wheelsets. The French firm had intimated before this that decision on placing the contract for the balance quantity might be taken before the middle of June, 1974 but the decision was taken on 22nd|24th July, 1974. The Committee desired to know why did it take more than a month to decide on placing the orders for the balance quantity. The Ministry of Railways have, in a note, stated:

"In spite of several reminders no quotation was received either from the Rumanian Trade Representative, New Delhi or the firm. On 5th June 1974 Railway Board received a letter from the Indian Embassy in Bucharest stating that M|s. Mechano Export does not yet manufacture wheelsets of the type required by the Indian Railways. Promptly a proposal was initiated on the 7th June, 1974 that remaining 50 per cent viz., 5715 Nos. should also be ordered on the French Company. This proposal duly approved by the Board was submitted to the Minister of Railways on 18-6-1974. Written reminders were issued on the 4th July and the 15th July requesting Minister of Railways to expedite the decision. Finally on the 22nd July, 1974 Minister of Railways minuted as under:

'I have no objection to our acting in accordance with the proposition at (5 above). However, I came across a news item in the Economic Times 2|3 days ago that there is general recession in the New York market. In this background would it not be advisable to go in for fresh tender I think we should.'

This file was received by the Board on the 24th July, 1974 and in view of the fact that US based firms hardly responded to our global tenders for this type of items, it was

decided by the Board to place order for 5715 Nos. same day i.e. 24-7-1974, and a telex acceptance was issued to the French firm.

While accepting the order for the 50 per cent quantity, the French firm vide their cable dated 29-3-1974 had agreed to our ordering 5715 Nos. with an option to order further 3429 Nos. during the currency of the contract? They had agreed to keep their price offer open in respect of balance 5715 Nos. for four months as desired by us i.e., before 25-7-1974. In view of this although the firm had requested us to take an early decision on the option quantity i.e., by middle June, the contractual position remained unaltered and the option could be validly exercised upto 25-7-1974.”

1.52. On 1st July, 1974 the firm had informed the Railway Board that it had requested for a decision on ordering of the extra quantities being taken well before 25th July, 1974 and also wanted a definite reply in the matter by the return of the post. The Committee enquired what action had been taken by the Railway Board on this letter of the firm and when? The Ministry of Railways have in a note, stated:

“In their letter dated 1st July, 1974 the firm had stated as under:

As per the contract, clause 6(i) states your intention of taking up the balance quantity of 5715 Nos. wheelsets by 25th July 1974, while clause 6(ii) is in respect of the option quantity of 3429 Nos. wheelsets to be taken up during the currency of the subject contract.

At the present rate of production the original contract quantity of 5715 Nos. will be completely manufactured by the end of September, 1974 at which time clause 6(ii) will cease to be operative unless you are able to take up the balance quantity of 5715 Nos. as per clause 6(i) before 25th July, 1974.

It would, therefore, be seen that even though the firm had requested us to take an early decision on the option quantity, the contractual position is that railways were empowered to order the additional quantity by 25th July, 1974 remained unchanged.

Firm's letter of 1st July, 1974 had been received by the Railway Board only on 16th July, 1974. At that juncture the file had already been submitted to the Minister of Railways and in fact a written reminder had been issued on 15th July, 1974. On receipt of the file from the Minister on 24th July, 1974 telex acceptance was issued to the French firm the same day."

1.53. During evidence the Committee enquired as to what could be the real cause for the non-acceptance of the order for the balance quantity by the French firm. The Committee also wanted to know whether the placement of order was late by one day or the terms of the contract had been modified by the Railway Board as alleged by the firm. The Chairman Railway Board, stated:

"Our feeling is that they were only trying to avoid the contract because the prices had gone up. They understood clearly that the date was only 25th July. They knew it, but in the covering letter they said that they would appreciate it if orders could be placed by the middle of June. But even after June we had been corresponding with them. They are only trying to evade the issue. We took legal opinion and consulted the World Bank also because we had to consult the World Bank about our going in for a risk purchase on their account since the contractual obligation was not met. All of us, including the World Bank understood the date to be 25th July."

1.54. In a note furnished to the Committee, the Ministry of Railways have stated:

"The firm's inability to accept the orders for the balance quantity and the option quantity appeared to be principally due to the rather unusual circumstances of rapidly rising raw material and labour cost brought about by severe inflation. An extract from the firm's letter dated 21st June, 1975 is reproduced below which explains the thinking of the firm.

"The difficulties of supplying further quantities beyond the original contract quantity are due, in our opinion, to many factors but principally due to the rather unusual circumstances rapidly rising raw material and labour costs brought about by unprecedented inflation of the last year or so. We are of the opinion that these difficulties

should be viewed as a form of 'force majeure' in that such difficulties could not have been foreseen by anybody as was indeed the case."

It is difficult to state at this stage as to what would have been the firm's reaction in case order for the balance and option quantity was placed immediately after the 5th June, 1974."

1.55. The Committee pointed out that when the Railway Board was aware of the energy crisis in December, 1973 and consequential steep rise in prices and also in the context of the firm's repeatedly telling that it would not be able to hold the contracted price for long, would it not have been prudent and in the interest of the Railways to take decision on additional and optional quantities well before the target date in the contract. In a note on the subject, the Ministry of Railways have stated:

"The administration took all possible action to expedite the decision regarding ordering the optional and the additional quantities as may be seen from the following:

- (i) on 5-6-1974 we became aware that the Romanian firm does not yet manufacture wheelsets of the type required by us and promptly on 7-6-74 a proposal was initiated to place the order on the French firm.
- (ii) The file had been submitted to the Minister of Railways on 17-6-74 and since the last date for exercising the option was getting closer, written reminders were issued on 3-7-74 and again on 15-7-74, apart from personally urging Special Assistant/Minister of Railways, Director Railway Stores' noting dated 3-7-1974 on the reminder is reproduced below:

"We may exercise the option well in time—say by middle of this month, if not earlier, so that the communication reaches the firm within the option date. The decision may kindly be expedited."

Order could, however, be placed only after receiving the approval of the competent authority."

1.56. According to the Audit paragraph the delay in placing the orders first after January, 1974 on receipt of the Tender Committee's recommendations and later after 5th of June, 1974 when it became clear that no supplies could possibly be had from Rumania has

resulted in avoidable expenditure of Rs. 1.32 crores. The Committee asked how did the Railway Board justify this avoidable expenditure. The Ministry of Railways have, in a note, stated:

“Ministry of Railways have endeavoured to the utmost extent to avoid the delay in placing the orders first and while exercising the option. This delay, however, has not altered the legal position in that the option was exercised within the validity date and the firm was bound to honour this option as they had agreed at the time of acceptance of the initial order. This view of the Ministry has not only been endorsed by the Legal Adviser but has also been accepted by the Ministry of Finance and the IDA (World Bank) when they approved the issue of the risk purchase tender against the firm's default.

When the risk purchase tenders were opened, the alternatives before the Ministry of Railways were to go through the process of risk purchase and place order on the Japanese firm for the full quantity and seek recovery of the extra expenditure of Rs. 2.64 crores from the French firm or to come to some amicable settlement with the French firm. Initially though the firm had come up with the plea that they received the option order late and could not supply the option quantity without a price increase, at a later stage they pleaded inability due to unprecedented inflation resulting in steep rise in the cost of raw material and labour which the firm pleaded, should be deemed to be “force majeure”. The firm also offered to supply the option quantity if the contract price is increased by half of the difference between the contract price and the lowest FOB price to be received against the forthcoming tender (risk purchase tender) subject to a maximum ceiling of 35 per cent and a minimum of 25 per cent.

The Ministry of Railways, after obtaining legal advice, wherein it was stated that, it would be advisable to arrive at a **settlement with the firm** inasmuch as there was no arbitration clause in the contract the firm was carrying on business in foreign territory and consequently litigation proceedings and execution of a decree against the firm would be beset with considerable difficulty, considered it expedient to arrive at a settlement with the firm

on the basis of the offer which they had made prior to the opening of the risk tenders. This meant agreeing to a price increase of 31.69 per cent over the contract price and meant additional expenditure of Rs. 1.32 crores only.

At this time due to steep rise in prices as a result of oil crisis several contractors asked for increase to compensate them for steep rise. In fact M.M.T.C. obtained a substantial increase in cost on a concluded contract with the Government of Poland. Similarly, against one of our contracts for supply of axles and tyres, Kolmex Poland came up with a request for price increase. In consultation with the Ministry of External Affairs, the Ministry of Railways reached an amicable settlement to give 70 per cent increase in axles and 34 per cent increase in tyres."

1.57. The Audit para points out that after the firm had declined to accept the order for the additional quantity of the wheelsets in July, 1974, the Legal Adviser of the Board advised in April, 1975 that, it would be advisable to arrive at a settlement with the firm inasmuch as there was no arbitration clause in the contract, the firm was carrying on business in a foreign territory and, consequently, litigation proceedings and execution of a decree against the firm would be beset with considerable difficulties. The Railway Board, however, decided in May, 1975 to proceed with the risk purchase and face the difficulties in realisation of the extra expenditure from the foreign firm. Subsequently, however, the Railway Board changed its stand and considered it expedient to arrive at a settlement with the firm. The Committee desired to know what material factors contributed to this *volte face* on the part of the Railway Board between April, 1975 when risk purchase was decided upon and August, 1975 when it was decided to make a settlement with the defaulting firm. In a note, the Ministry of Railways have stated:

"Floating of the risk tender was very necessary as this alone could establish the international market price of this item. Although the French firm had made several attempts for reaching a settlement, their best offer (21-6-75) came only when they knew that Ministry of Railways may go through with the risk purchase. The risk purchase tender was opened on 23-6-1975.



Relevant extracts of the Tender Committee note are reproduced below which explain the background under which the amicable settlement was recommended:

"The following facts, however, merit special mention:

- (i) The tender (GP-72) was floated on 19-9-1973 and opened on 31-10-1973. The original offer of the firm was valid upto 29-1-1974. Since the tender could not be finalised within the period of validity, the firm was placed only for 50 per cent quantity, viz., 5715 Nos. and the firm was requested to give us 4 months' on 11-4-1974.
- (ii) The tender was floated for 11,430 Nos. However, order was placed only for 50 per cent quantity viz. 5715 Nos. and the firm was requested to give us 4 months' option to order the remaining 50 per cent quantity. Although our request for giving the said option was outside the frame work of the tender, the firm readily agreed.
- (iii) Should we decide to go ahead with the risk purchase an amount of Rs. 264 lakhs approximately will have to be recovered from the firm. Legal Adviser is of the opinion that it may not be prudent to litigate with a firm not based in India and even if we secure a decree its execution in a foreign country will present considerable difficulty. He has, therefore, suggested for consideration whether it would not be advisable to hammer out an amicable settlement.
- (iv) The price increase of 31.69 per cent now being asked by the firm is the lowest of the various price increases that they have been asking for since July 1974, as referred to in para 7.2 above.
- (v) An amicable settlement with M/s. Creusot-Loire may ensure their continued participation in our future tenders resulting in a good all-round competition, considering that there are limited suppliers of this item in the world.

The Tender Committee have taken the above facts into consideration and are of the view that instead of seeking a legal solution, the balance of advantage may be in our favour if we reach an amicable settlement by agreeing

to increase the price to the mid point between the old contract price and the acceptable price against the global tender. This would mean additional liability of about Rs. 132 lakhs for 9144 Nos. wheelsets as against additional amount of Rs. 264 lakhs by ordering on the lowest tenderer (Sumitomo) against global tender at the risk and cost of Creusot-Loire. Although we have withheld Rs. 115 lakhs, the recovery of Rs. 264 lakhs can be enforced only through a decree in a court of law. Legal Adviser is of the opinion that execution of the decree in a foreign country will present considerable difficulty.

Considering the above aspects and subject to International Development Association and Ministry of Finance approval, the Tender Committee recommends an amicable settlement with M/s. Creusot-Loire in which case there will be no need for risk purchase..."

1.59. In regard to the 5715 wheelsets ordered on the French firm in March, 1974, the Committee desired to be furnished with the contractual delivery schedule and the actual supply position as also the details of the liquidated damages if any, levied for delayed supplies. The Ministry of Railways have furnished the following note in this connection:

"The contractual delivery schedule and the actual delivery made are tabulated below:

Date	Delivery	Scheduled-cum-Total	Actual Delivery-cum--Total	
July, 1974	1200	1200	1019	1019
August, 1974	1200	2400	..	..
Sept. 1974	1500	3900	1200	2219
Oct., 1974	1500	5400	381	2600
November, 1974	315	5715	859	3459
December 1974	..	..	..	3459
January, 1975	..	..	1500	4959
February, 1975	..	..	665	5624
November, 1975	..	..	91	5715

A sum of F.F. 692,881.31 (Rs. 12-51 lakhs) has been recovered from the firm towards liquidated damages and the extra ocean freight paid on delayed shipment. The firm have made a representation that the delay has occurred due to non-availability of vessel. This is under examination."

1.60. The Committee enquired when was the recovery of liquidated damages actually effected. The Ministry of Railways have stated:

"Chief Accounts Officer in London had advised in his letter dated 28-6-1976 that FF 692,881.31 (Rs. 12.51 lakhs) approximately had been withheld by him against contract No. 75|RSF|962|7."

1.61. The Ministry of Railways have further stated:

"A representation against the recovery was received from the firm in September, 1976 wherein the firm had pleaded that delay in shipment was due to non-availability of vessel. The comments were sought from out forwarding agents M/s. Schanker & Co. and RA|London. Their remarks have since been received and the matter is under examination."

#### Assessment of the requirements of wheelsets

1.62. The Committee have been informed that as per the normal practice, the requirements of wheelsets for wagon production during a particular year were reviewed around the middle of the previous year to assess the quantity to be imported due to long lead time involved in arranging components. During evidence the Chairman, Railway Board, stated:

"Normally we have a rolling-stock programme two years in advance. We estimate our requirements of wagons to be built in the coming year and we calculate the number of wheels required and, after allowing for the indigenous capacity, the remaining is put up for procurement by import through the World Bank credit. That has been the practice till now."

He added:

"...in working out the Five Year Plan the wagon requirements are calculated on the basis of two accounts: one is the additional account for the additional traffic anticipated and the other is the replacement account for the

wagons which are over-aged. Both these are grouped together and we have what we call the advance rolling-stock programmes' for three years. We make triennial rolling-stock programmes because the wagon builders themselves take 18 to 24 months to build the wagons. Normally we place orders about 18 months to two years in advance. After the total tonnage is estimated by us, we have the figure of what we call the 'turn-rounds'. The turn-round of the wagons is based on the actual performance of the turn-round of our wagons as from the time they are loaded to the time they are re-loaded. The whole time is taken as a cycle and from that we derive the number of wagons required. Once we decide on that, we decide the type of wagons required for various commodities. After this exercise is done the calculation in regard to wheels etc. is more or less an arithmetical exercise."

1.63. In the same context the Member Engineering stated:

"The number of wagons which we should buy is cleared by Planning Commission in the month of January for the financial year just following whereas wheels involving imports are to be processed about 8 or 9 months earlier. Near about August, we invite tenders. We try to finalise and place orders round about September/October. We give 6 month time for importer to import the wheels. When we order the wheels, at that stage, what is the exact amount which the Planning Commission will allocate for the wagons is not clear. We have to exercise our judgment on that basis."

1.64. The Committee enquired whether the Annual Plans for the Railways were prepared after consulting all the concerned Ministries. The Chairman, Railway Board, stated:

"It used to be a broad consultation that we had at the beginning of the Five Year Plan. Individual exercises as to how many wagons should be ordered that year and how many locomotives are to be ordered etc. was being left to the Railways. But lately, because of the constraint on resources, there has been a little more pruning of our requirements by the various Ministries and the Planning Commission because the funds are ultimately to come through the Planning Commission and the Finance Ministry."

The Member Engineering added:

"As far as the annual plan is concerned, we tentatively decide in the month of May or June for the works, rolling stock plan and machinery, as to what should be the ceilings for the next year, so that the Railway Board and the Railways can plan their work accordingly."

1.65. In reply to a question whether the Planning Commission and the Ministry of Finance were consulted before preparing the annual plan for the year 1975-76, the Member Engineering stated:

"Having consulted the Planning Commission for the Five Year Plan, we consult them for the annual plan in the month of November-December and the Ministry of Finance in the month of January preceding to the year relating to the Budget. By the end of January everything is finalised for the budget."

1.66. In regard to the role of the Planning Commission in such consultations, the witness stated:

"It is monitoring all the time with reference to the five year plan. In the month of November-December when they held discussions with us, they see, if there can be any cut or increase under any particular plan head."

1.67. Explaining the position regarding the estimation of wagon requirements of the Railways for the Fifth Plan, the Chairman, Railway Board, stated during evidence:

"When the draft Fifth Plan was drawn up, we set up two Working Groups, one for passenger and another for goods, and it was estimated that we would have to move 335 million tonnes of traffic. But the railways felt that the figure was on the high side and reduced it to 280 million to 300 million tonnes. In consultation with the Planning Commission, a draft plan was worked out and the total investment for this period was estimated at more than Rs. 3,000 crores. This was not likely to happen. In the draft plan it was estimated that we will have the rolling stock to move this traffic, about 1,09,000 wagons. Then it was reduced from 1,09,000 to 77,000 wagons. So, every year we were planning to have 11,000 to 12,000 wagons. In December 1974, the Planning Commission felt that the resources position was rather tight and since there was some inbuilt capacity in the railways, the plan for 1975-76 be

reduced to 6,000 wagons, which was not accepted either by the railways or the wagon industry. We were always thinking that it should not be less than 11,000 to 12,000 wagons per annum to keep the industry going as well as to build the capacity needed at the end of the Fifth Plan. When it was reduced to 6,000 there was a very big agitation in West Bengal against the cutting down of the wagon building programme. The Railways also felt that this money was very little. So, a Cabinet paper was made in April, 1975 bringing out all our requirements. In that paper we projected that for 1975-76 we may be permitted to do up to 11,000 wagons, in 1976-77 about 14,000 wagons and in 1977-78 about 18,000 wagons, so that the total of 77,000 wagons would be built within the Plan period. It was the view of the railways that more funds should be allotted for wagon building. Simultaneously, the Minister for Heavy Industry also intervened and desired that the wagon building industry should not be killed and that we should give sufficient orders to that industry. Since a Cabinet meeting was not possible, or was not considered necessary, an inter-Ministerial meeting was held, consisting of the Minister for Industries, Minister for Railways and the Deputy Chairman of the Planning Commission, where the funds required by the railways for 1975-76 was discussed."

1.68. In the note for Cabinet referred to in the above para, the Railway Board had put up the following proposals in relation to the outlay on wagons:

"11.1. *Wagons*: The outlay of Rs. 36 crores for wagons within the overall outlay of Rs. 123 crores under Rolling Stock during 1975-76 would enable procurement of only 5,500 wagons (in terms of four wheelers) and the bulk of these will be on replacement account. To enable the procurement being maintained even at the low level of 1974-75 (11,500 wagons), an additional sum of Rs. 33 crores would be necessary. Procurement in subsequent years will also have to be further stepped up to 15000 wagons in 1976-77, 18,000 wagons in 1977-78 and 21,000 wagons in 1978-79 to enable the overall procurement of 77,000 wagons."

1.69. The 'Record Note' of discussions on the note for the Cabinet held on 2-5-1975 at a meeting between the Ministers of Railways, Industry and Civil Supplies and Deputy Chairman, Planning Commission for discussing the position of wagon availability on the Rail-

ways, further procurement of wagons and funds therefor, shows that *inter alia* the following decisions were taken:

- (i) The current rate of production of wagons i.e. about 10,000 wagons per year in terms of 4-wheelers by Wagon Industry will continue during 1975-76.
- (ii) The Railway Board will carry out an exercise on review of projects including new lines provided in the Fifth Plan, reallocate priorities and endeavour to locate savings to the extent possible."

1.70. The Chairman, Railway Board had stated in evidence that even in that meeting of Ministers "we felt that we should be permitted to have 11,000 wagon in 1975-76 and 14,500 in 1976-77". Referring to this observation, a representative of the Planning Commission stated in evidence:

"According to our records and our understanding of the situation, the position is as follow:

There was a discussion on the requirements of wagons for the period 75-76 Discussions were held sometime in December 74. At that time the resource position of the railways was extremely tight. As the Chairman explained, normally the Planning Commission does not look into very great details about the individual requirements in terms of wagons and so on. In view of the very acute position of the resources for 75-76, a little detailed examination was done in the Annual Plan discussion. The capacity of the Railways was then assessed at about 225 million tonnes of originating traffic and in so far as the expected movement during that particular year was not envisaged to be higher than this level, it was felt that the addition of wagons by way of augmenting the fleet could perhaps wait for another year. Therefore, we have agreed that something like 5500 wagons could be procured during that particular year. However, the Railway Board felt that there are likely to be difficulties and therefore in that light, it was suggested that they could come up with another paper fully explaining as to why more number of wagons would be needed during 1975-76. Consequent to this, a paper was prepared in the form of a Cabinet note. However, this matter was not taken up in the Cabinet. But there were discussions at the Ministerial level and

at the official level. During those discussions, it was generally agreed that partly taking into account the apprehensions of the Railway Board and partly on account of its implications on the wagon building industry, some additional provisions might be made for 1975-76. An additional budgetary allocation of Rs. 25 crores was made for the purpose. In the paper that was presented by the Railway Board, they had made an estimate of requirements of wagon for the subsequent years also. The presentation was that something like 77,000 wagons would be needed to be procured over a period of five years starting from 1974-75 to 1978-79 i.e., the Fifth Five Year Plan period. The Planning Commission had, however, felt that this figure was probably a little too high. It was perhaps based on a conservative assessment of the efficiency or potential for improvement in the Railway system itself. To our understanding, no final view was taken with respect to this 77,000 wagons to be procured over the five year period. The primary emphasis was with respect to the number of wagons to be procured in 1975-76, it was originally put at 5,500. But in the light of subsequent discussions and the apprehensions of the Railway Board that this might create some difficulties, this was increased by another six thousand or so. But no final view was taken about the programme for future years."

1.71 When the Committee pointed out that although the Railway Board's demand of enhancing the number of wagons to be produced during 1975-76 was agreed to, the amount sanctioned was only Rs. 25 crores against Rs. 33 crores asked for by the Railway Board, the Chairman, Railway Board stated:

"This was supposed to be made up by the Railways by reallocation of the resources."

1.72 The representative of the Planning Commission added in this connection:

"For the additional rolling stock programme covering both wagons and locomotives, an amount of Rs. 43 crores was proposed. In the course of the discussion, it was felt that more number of wagons will be needed. However, an additional amount for budgetary support of Rs. 25 crores was sanctioned. It was said to be for Rolling Stock programme. In other word, a degree of flexibility was left



to the Railways to distribute this amount between wagons and locomotives. It was also mentioned that the Railways, out of the earlier allocation, would be able to find Rs. 10 crores for this purpose by cutting out something else. In effect they have Rs. 35 crores of money against Rs. 43 crores, which the Ministry had asked, which was Rs. 33 crores for wagons and Rs. 10 crores for locomotives. We had not said that out of this Rs. 35 crores, so much should be spent on wagons and so much on locomotives."

1.73. In regard to the requirements for 1976-77, the representative of the Planning Commission added:

"As far as 1976-77 is concerned, the paper that was submitted in April, 1975 was primarily for the purpose of reviewing the demand for 1975-76. But that paper also contained certain projections for the future years. Projection for 1976-77 in that paper was 14,500 wagons. However, the discussion were primarily about 1975-76 and no detailed view was taken about the subsequent programme partly for the reason that the Planning Commission had felt that the kind of projections made were capable of significant improvement and partly because it would be very difficult to take a final view in regard to the allocation for 1976-77 so much in advance." .....

1.74. When the Committee asked whether the Planning Commission had accepted the Railway Board's projection in regard to wagon requirements for 1976-77, the Chairman, Railway Board, stated:

"I agreed with my colleague that it was agreed specifically for 1975-76. With respect to future, there was no agreement. But the whole plan was in front of us. The Railway Ministry was charged with the responsibility of moving the traffic."

He added:

"There was no particular discussion about 1976-77...The discussion was confined only to 1975-76 and the immediate need for finding some money. As far as Railway Ministry is concerned, we take advance procurement on the overall plan."

1.75. In the same context the Member Engineering stated:

"The Planning Commission gave a final figure about the number of wagons to be made in the month of January. In

January 1975, they had given this figure for 1975-76. In January 1976, also like that, they gave the figure for 1976-77 that wagons had to be ordered two years ahead. Wagons had to be ordered in advance and therefore planning for wheels had to be done to match wagons. So, an advance action had to be taken on best possible judgement."

He added.

"This figure for budget is given in the month of January, three months before the commencement of the production year. Rolling stock like wagon, certainly, cannot be produced within three months; it takes two years to produce the wagon on placement of order. As far as wheelsets are concerned, the import cycle itself takes at least nine months. We have to do advance planning using our judgment. There is no alternative."

1.76. From the information made available to the Committee it is seen that the actual production of wagons by the established wagon manufacturers against orders placed by the Ministry of Railways from time to time was as shown in the table below:

Year	Actual production in terms of four Wheelers
1972-73	10,834
1973-74	12,198
1974-75	10,959
1975-76	12,176
1976-77	11,982

1.77. Since the actual production of wagons over the years hovered around 12,000 wagons, the Committee desired to know how the estimate of 14,500 wagons for 1976-77 was projected and whether this was a routine decision or something abnormal. The Chairman, Railway Board, stated:

"It was not an abnormal decision at all. Normally we plan for wagon production in April-May of the previous year and we do process the wagon orders by July-August. Simultaneously we do process the free-supply items. I would only submit that there was nothing abnormal in taking in May 1975 the projections for 1976-77. But what was abnormal was when the orders for 1975-76 were cut down to

6,000 in January, 1975 at the instance of the Planning Commission; it was abnormal and there was a crisis. That was the only abnormal thing for which we went to the Cabinet and the meeting was held..... In that additional funds were sanctioned. That was a little abnormal....."

1.78. According to the Audit paragraph, the Railway Board, in May|June 1975, without consulting the Planning Commission, assumed that the wagon production in 1976-77 would also be 11,500 numbers as projected for 1975-76 in April 1975 which was approved by the Planning Commission in July 1975. However, the Tender Committee had assumed in June, 1975 a level of production of 14,500 four wheelers during 1976-77 requiring procurement of 18,806 wheelsets and justifying placement of order for 9,144 wheelsets on the Japanese firm over and above the order for 9,144 wheelsets on the French firm. During evidence the Committee enquired whether the Tender Committee was authorised to make estimation of the wagon production also and what was the basis for increasing the estimate to 14,500 wagons. The Chairman, Railway Board, stated:

"The Tender Committee normally does not decide the number of wagons to be ordered or the wheelsets to be ordered. It is the function of the Railway Board. This point about 14,500 was discussed fully; it is in the minutes of the Tender Committee's proceedings."

1.79. In reply to a question as to why did the Tender Committee discuss at all when it was not the function of that Committee, the Chairman, Railway Board stated:

"They were asked to. The tender was available and they were discussing how much should be ordered or should not be ordered. It was a conscious decision of the Board—every Member of the Board."

1.80. From the extracts of the relevant notings in the Railway Board's file regarding the projection of anticipated production of 14,500 four wheelers during 1976-77, it is seen that the estimates of the requirements of 20-tonne wheelsets were worked out on the basis that 11,500 wagons would be produced in 1975-76 and more or less the same level of production of wagons was assumed for the year 1976-77. It had been brought out in the notings that "It has been clarified from Planning Directorate that the anticipated production for 1976-77 indicated by them to the IDA mission for the next credit negotiations is 14,500 Four wheelers. The requirement of 20-tonne wheelsets has been reviewed on that basis". The Financial

Commissioner had however recorded on 3.6.1975 as under, on the relevant file:

May pend for a couple of weeks so that the availability of funds in 1975-76 is known for certain. In the meantime we may process the case on the assumption that we shall procure as many wagons as we did in 1974-75. Requirement of wagons in 1976-77 could also be assumed at the same level but keep the option for ordering additional wheelsets to match the production of 14,500 four-wheeler units."

1.81. In regard to the estimation of the wagon requirements and the corresponding requirements of 20-tonne wheelsets, the Ministry of Railways have, in a note, explained:

"In May/June, 1975, the requirements of 20-T wheelsets for wagon production during 1975-76 and 1976-77 were worked out by the Railway Board. In working out these requirements, two alternative levels of production were assumed for 1976-77. These were as under:

*Alternative I*

1976-77—11660 Four wheelers (This is the same level as in 1974-75 and 1975-76).

The import requirement as per this alternative worked out to 14,865 wheelsets.

*Alternative II*

1976-77—14,500 Four wheelers (Projected increased production to achieve the Fifth Plan target of 77000 FW units).

The import requirements as per this alternative worked out to 19,400 wheelsets.

It was initially considered (on 3rd June 1975) that the requirements of wheelsets for 1976-77 production be ordered corresponding to production of 11,660 wagons with an option clause to order the additional quantity of wheelsets corresponding to wagon production of 14,500 wagons. On the recommendations of the Tender Committee made on 28th June 1975 to order the full quantity of 18,288 wheelsets, Railway Board considered the alternative of ordering 14,865 Nos. with an option to order balance 3,424 later and decided with the approval of the Minister to order the

total quantity straightaway without incorporating any option clause in the contract. This was because of the experience of the previous contract where exercise of the option clause led to contractual difficulties.

The production level assumed for 1976-77 was based on the following considerations:

- (i) There was a need to plan progressively higher rate of wagon production during 1976-77 and onwards with a view to get a total of 77,000 wagons in the 5th Plan period which was considered necessary for meeting the traffic requirements.
- (ii) During Ministry of Railway's discussions with IDA Mission in March/April, 1975 for IDA credit for 1975-76, production level of 14,500 wagons during 1976-77 was accepted. In these discussions, representatives of Ministry of Finance and Planning Commission were present.
- (iii) The actual availability of funds for the year 1976-77 would have been known from the Planning Commission only in January, 1976 and on account of the long lead time (over one year) involved for procuring wheelsets through import, it was not at all desirable to defer till January, 1976 the purchase of wheelsets required for 1976-77 wagon production. Deferment of purchase of wheelsets to a date after January, 1976 would have resulted in stock out and large scale stabling of wagons. In the absence of indication of funds, it is the normal practice to initiate procurement action for long lead items on the basis of requirements of Rolling Stock. In this case, the requirements of 77,000 new wagons during 5th Plan period, warranted requirements of 14,500 wagons during 1976-77."

1.82. Referring to the statement of the Ministry of Railways that the production level of 14,500 four wheelers in 1976-77 was based on the need for planning progressively higher rate of production during 1976-77 and onwards with a view to get a total of 77,000 wagons in the Fifth Plan period, the Committee asked whether this estimation had been accepted by the Planning Commission and if so, when. In a note, the Ministry of Railways have stated:—

"...The requirements of wagons for the revised traffic level anticipated worked out to 77,000 wagons. The Memorandum for the Cabinet indicating estimated requirement

**of wagons at 77,000 was also sent to the Planning Commission. While the overall estimate of 77,000 wagons was not specifically accepted by the Planning Commission, in July, 1975, they agreed to provide additional funds to the extent of Rs. 25 crores for wagons during 1975-76."**

1.83. It is observed that the Planning Commission had stated in December 1974 that the Railways had already built up capacity of rolling stock for carrying 225 million tonnes of traffic and that the Railways could do with the acquisition of 5,500 wagons during 1975-76. In July 1975, the Planning Commission had agreed for additional fund which was adequate for maintenance production of 11,500 wagons only during 1975-76. The Committee therefore asked in view of this and also when there was no indication about the availability of funds for 1976-77 how could the production level of 14,500 wagons during 1976-77 as assumed in May-June 1975 be considered as justified. The Ministry of Railways have, in a note, stated:

"Although the availability of funds for 1976-77 was not known in May-June '75 when the requirements of 20-ton roller bearing wheelsets were worked out for the anticipated production during 1975-76 and 1976-77, a production level of 14,500 wagons during 1976-77 was assumed on the basis of procuring in the Fifth Plan Period Railways' revised requirements of wagons. Wagon production during 1976-77 and onwards had to be planned at a higher level as otherwise it would not have been possible for the Railways to procure the then estimated requirements of 77,000 wagons in the 5th Plan Period."

1.84. The Committee also asked how could the commitment for purchase of wheelsets be made without prior approval from the Planning Commission regarding allocation of funds etc. In this connection, the Ministry of Railways have stated:

"Against the wagon orders placed by the Ministry of Railways on the wagon builders, it is the contractual responsibility of the Ministry of Railways to arrange wheelsets as a free supply item to them to match their production requirements. Accordingly, along with the provision for wagons full requirement of free supply items are also provided for in the rolling stock programme. This is adequate authority to enter into advance commitment. The procurement action for wheelsets in this case was taken for only part of the wagon orders which had already been placed against which deliveries were expected before

31-3-1977. It is normal practice that prior approval from the Planning Commission regarding allocation of funds is not obtained for entering into advance commitments for procurement of rolling stock or free supply items with long lead time. The procurement action is initiated for such items on the basis of requirements of rolling stock and subsequently when the funds allotment is found to be inadequate, action is taken either to defer the deliveries or set off over stocks, if any, against the future requirements."

1.85. The Committee were informed that during 1976-77, the actual wagon production was 11,932 wagons in terms of four wheeler units. 15,450 numbers 20-Ton wheelsets were used during 1976-77 in wagon production requiring this type of wheelsets. In this context it is to be seen that the estimation made by the Tender Committee in June, 1975 placed the requirement of wagons for 1976-77 at 14,500 four wheeler units and those for wheelsets at 18,806 numbers.

1.86. The Committee called for the Minutes of the Tender Committee proceedings which estimated the requirements of wagon and wheelsets. Extracts of notings from the relevant files, as furnished by the Railway Board are given in Appendix 1. The proceedings of the Tender Committee *inter alia* reveal that:

- (i) The tender GP-75 had been floated as a risk tender against Creusot-Loire, France after obtaining IDA's permission. The Tender Committee recommended placement of the order for 9144 No. Wheelsets on the lowest tenderer viz. M/s. Sumitomo Metal Industries, Japan.
- (ii) Before the opening date of the tender, M/s. Creusot-Loire, France had requested for a settlement of dispute by increasing the previous contract price (FF 2168) by half of the difference between the contract price and the lowest FOB price to be received against the tender GP-75. The Tender Committee recommended that instead of seeking a legal solution the balance of advantage will be in Railways' favour if a settlement was reached with the French firm by offering 31.69 per cent price increase, and subject to the acceptance by the competent authority the purchase from the Japanese firm could be deemed as a straight purchase to cover 1976-77 requirements. The requirements for 1976-77 had been worked out on the assumption that 14,500 wagons would be acquired during that year.

- (iii) In regard to the quantity of wheelsets required the then Additional Member Finance had noted as under:

"On another file F.C. had suggested that, pending clarification of the position regarding availability of funds for 1975-76, we may assume that we shall procure 11,500 wagons in 1975-76 as we did in 1974-75, and requirements of wagons in 1976-77 could also be assumed at the same level but an option kept for ordering additional quantities to match the production of 14,500 wagons. The additional funds for 1975-76 asked for have not yet been allotted and I understand that the total allotment may be for only about 10,000 wagons. In the circumstances, we should for the present consider ordering only 14,865 of 20-ton wheelsets with an option of 3,424. If 18,288 wheelsets are ordered as recommended by the Tender Committee, we will end up with some quantity—equal to about 4 months consumption—in excess of the requirements, and this would have to be kept as buffer stock."

- (iv) The then Member Mechanical had then recorded the following note:—

"Ordering 14,865 wheel-sets with an option of 3,424 as suggested by AMF, will require discussions with the lowest tenderer for his agreement to this mode of purchase. This may create complications as happened in the previous case and will result in serious delays. 3,424 wheel-sets is not such a large quantity and may be treated as a buffer stock.

There has been an acute shortage of wheel-sets resulting in stabling of wagons and, as such, it is most necessary to arrange for the supplies *urgently*. The Tender Committee recommendations, under the circumstances, may be approved for the full quantity of 18,288 wheel-sets and the case referred to IDA immediately so that CRB and FC may be able to pursue this case further during their visit to U.S.A."

- (v) While agreeing with the Member Mechanical the then Chairman, Railway Board had minuted as under:—

"Wheelsets have been in short supply and the full quantity as recommended by the Tender Committee should be purchased. The IDA's clearance can be obtained in the



usual way and if the IDA need any clarification this can be given by Mission if really required."

(vi) The Minister of State for Railways, with which the Minister of Railways agreed, had recorded the following note:—

"We have not been able to procure wheelsets indigenously and this has pushed us to the foreign markets. We should go in for full quantity of 18,288 wheelsets because of the fear that prices may go up and deliveries may get delayed."

1.87. As to the assessment of the requirements of wheelsets made during the years 1972-73 to 1975-76 and to what extent the requirements were met from indigenous sources and from imports, the Ministry of Railways have, in a note, stated:

"The requirements for the year 1972-73 were reviewed in July|August, 1971. It was considered that there would be no need for imports as the indigenous anticipated receipts @600 per month and the pending import orders would meet the requirements of 20-ton wheelsets for all the outstanding wagon orders. Actual receipts from indigenous sources during 1972-73 was 4670 and imports 1400 Nos.

Consequent to placement of substantially large wagon orders during the first half of 1972, the requirements for 20-ton wheelsets for period upto 31-3-1974 were reviewed in July|August 1972. This review indicated that taking into account indigenous availability of 20-ton wheelsets @7000 per year, 11700 Nos. of 20-ton wheelsets would need to be imported for wagon production upto 31-3-1974. Import orders were placed for 11750 Nos. in January 1973. Actual supplies during 1973-74 had been 5083 from indigenous sources and 11550 from imports.

The requirements of 20-ton wheelsets needed for wagon production in 1974-75 were worked out in June|July 1973 based on anticipated production of 12569 wagons (FWs) and anticipated indigenous supplies of 8000 wheelsets and it was estimated that 14859 wheelsets should be imported to meet the wagon production requirements fully. However, while calling the tender, this quantity was reduced to 11430 Nos. with a view to stipulate the option clause to order extra to the extent of 30 per cent (i.e., 3429 Nos.) after watching the actual performance of all wagon builders.

Against the tender, the firm order was placed on a French firm for 5715 wheelsets with the option to order the balance 5715 Nos. and also an additional 30 per cent of the tendered quantity (namely 3429 wheelsets). However, when the option were exercised for ordering the balance 50 per cent (5715) and 30 per cent (3429), the firm did not accept the additional orders.

When the coverage of requirements against the tender for 11430 was under consideration, it became apparent in Feb. 1974 that even if the order was finalised by the middle of March 1974, supplies of wheelsets from the French firm could not be expected to reach the wagon builders till September 1974 due to longer transit time required for supply from the Continent. Consequently, an emergency purchase order for 4000 wheelsets was placed in April 1974 on repeat order basis on the Japanese firm.

Actual supplies during 1974-75 had been 6709 wheelsets from indigenous sources and 9159 wheelsets from import.

Requirements of 20-ton wheelsets for wagon production of 12000 FW units during 1975-76 were reviewed in Nov. 1974. It was considered that taking into account the indigenous availability @ 450 wheelsets per month, due from import and the option to order additional 5715 + 3429 wheelsets on the French firm, fresh import at that stage was not necessary. During the meeting held between the Railway Board and the Planning Commission in Jan. 1975, drastic reduction in the funds allotment for wagon production became apparent. Review in February, 1975, indicated that for the reduced level of wagon production (6000 FW units) during 1975-76, requirements of 20-ton wheelsets would be fully met by indigenous supply a 450 Nos. per month and the pending import orders even if additional quantities of 5715 + 3429 are not supplied by the French firm.

When the allocation of additional funds by the Planning Commission to maintain the level of production in 1975-76 at the level of 11500 four wheeler wagons (i.e. 1974-75 level) became apparent, requirements of 20-ton wheelsets up to 31-3-1977 were reviewed in June/July 1975 for wagon production of 11500 FW units during 1975-76 and 14500 FW units during 1976-77. Considering indigenous supply of 11475 wheelsets during the 2 years (10800 Nos. from HSL, 675 from TISCO), requirements to be imported were

assessed as 19400 wheelsets. However the import order was placed for 18288 only. Supply of 8728 and 6048 wheelsets was received during 1975-76 and 1976-77 respectively from indigenous sources and 9966 and 5962 wheelsets during these two years respectively from import."

1.88. According to the Audit paragraph the estimations of the requirements of wheelsets for 1976-77 as made by the Tender Committee in June, 1975 were on the high side as (i) the wagon production estimates at a level of 14,500 numbers during 1976-77 were not warranted on the basis of funds availability, and (ii) no reduction in the element of buffer stock was made by a reduction in the number of wheelsets planned for acquisition in 1976-77 even though the procurement action had been advanced by 4 months. The Committee enquired why no reduction was made in the element of buffer stock when the procurement action had been advanced. The Ministry of Railways, have, in a note, stated:

"The term 'buffer stock' in this case include:

- (i) the wheelsets issued to the wagon builders for wagon which are under different stages of work until the assembled wagons are delivered i.e. work-in-process. Bare minimum work-in-process requirements is one month's consumption, as in the wagon builders' assembly line, the wheelsets have to be available at least one month ahead of the planned delivery of the wagons.
- (ii) the number of wheelsets in transit, after they are inspected at HSL/received in docks, until they are received in the wagon builders' premises. In the case of imported wheelsets, the time taken for mounting the roller bearing axle boxes has also to be added. The average transit time is about a month.
- (iii) in addition to the work-in-process a free stock of at least one month's requirement must be available with the wagon builders to meet temporary fluctuations in production, delay in arrival of successive allotments etc. which are normal contingencies.

With stocks less than three months, we have experienced stabling of wagons and disruption of production. Thus, the requirement of 3565 wheelsets representing three months' consumption though termed as 'Buffer Stock' was part of the firm requirements for the relevant period.

Hence, the question of reducing this part of the requirement merely because the ordering has been advanced by four months, does not arise.

It may also be appreciated that the term 'buffer stock' as considered in this case is different from the concept of 'buffer stock' normally considered for depot stock items, where it represents an additional quantity over and above the period's requirements, to meet unforeseen increases in consumption, allowance for lead time etc."

### *Production by HSL*

1.89. According to the Audit Paragraph the Railway Board had explained that the order for 18,288 wheel-sets i.e. 1,112 sets less than the estimated requirements for 1975-76 and 1976-77 was placed to avoid any increase in rates as prices were on the increase and there was no indication that the Hindustan Steel Ltd. would be able to step up supplies in excess of the committed level of 450 wheelsets per month. The Committee desired to know what was the methodology followed for assessing the indigenous capacity for wheelsets and whether in these assessments the socio-economic conditions, the prices and the need for developing the indigenous industry were taken into consideration. The Chairman, Railway Board stated in evidence:

"We have had a projection from the Durgapur Steel Plant which only supplies these wheelsets. It was discussed at the Secretary level."

He added:

"Whatever the Durgapur Steel Plant can produce, the assessment is there and we have a Liaison Inspector over there and every quarter it is discussed at the Joint Plant Committee meetings and the Steel Plant is very closely associated with us."

1.90. The Committee enquired whether there was any system of periodical review of the production programme of wheelsets by the Durgapur Steel Plant and if there was such a system did not the Railway Board know prior to July, 1975 (when it was decided to procure wheelsets from Japan for 1976-77 requirements) that the Durgapur Steel Plant would be increasing the production. The Ministry of Railways have, in a note, stated:—

“Regular meetings were being held by the Ministry of Railways with the representatives of HSL. Meetings were held on 8-1-73, 7-5-73, 23-4-74 and 9-9-74. During these meetings representatives of HSL were being asked to increase their production, particularly of 20.3 tonne wheelsets. In the meeting held on 9-9-74, the Supdt. Wheels & Axles Plant, Durgapur stated that production could be expected at the rate of 700 to 800 Nos. per month although their commitment should be deemed at the level of 600 Nos. per month i.e. 450 Nos. of 20-T, 100 Nos. of 12-T and 50 Nos. of 10-T per month basis. On being enquired, Railway Board confirmed that higher production of 20-T wheelsets upto the level of 700 to 800 per month as envisaged by HSL would be acceptable to the Railways.

In line with this understanding, Chairman, Railway Board, in his D.O. letter dated 10-10-74 addressed to Secretary, Department of Steel, requested for the consideration of Secretary Steel whether 5000 wheelsets could be supplied between October 1974 and March 1975 and 7,500 during the period April—Sept. 1975. In his reply dated 15-1-75 Secretary Steel regretted his inability to supply wheelsets as asked for by the Chairman, Railway Board and committed to supply only 3600 wheelsets during the period April—Sept. 1975. Further, he promised to revert to the subject in 6 to 8 weeks' time. In his subsequent D.O. letter dated 17-3-1975 addressed to Chairman, Railway Board, Secretary Steel advised that he had the question of likely production of DSP examined and due to various constraints, the plant cannot commit supplying wheelsets exceeding 3,600 wheelsets during the period April—Sept. 1975.

It would be seen from the above that the indication given to the Ministry of Railways was that only 450 wheel-sets of 20-T per month could be expected from HSL. Imports were finalised in August 1975 on this basis.

However, in the past emergency period, supplies from Durgapur started picking up particularly from Oct. 75 onwards. Supplies from DSP at a higher level would have meant accumulation of inventories on the Railways. Therefore, a review was made in Nov. 75 to assess the extent to which supplies from DSP can be accommodated and simultaneously a decision was taken to ask the French and Japanese firms to accept cancellation/deferment of supplies.”

1.91. In another note, the Ministry of Railways have stated:

“The actual supplies from HSL during 1973-74 were 5,080 (425 Nos. per month) and during 1974-75, 6,260 Nos. (520 Nos. per month). During April and May 1975, HSL supplied 348 and 380 Nos. respectively.

Therefore, in July 1975 when the tenders were under finalisation, there was no indication whatsoever that HSL would be increasing the production.”

1.92. In the same context the Department of Steel have, in a note, state:

“Periodical meetings to review production programme of wheel-sets by Hindustan Steel Limited were held between Railways and Hindustan Steel Limited (DSP) at the level of Controller of Stores (BI), Eastern Railways, Calcutta on a monthly basis where the production programme of wheel-sets was indicated by the plant to the Railways alongwith actual supplies on month to month basis. The allocation of wheelsets to wagon builders and the Railway workshops was done on the above basis. This system of monthly review was in vogue during 1974-75 and still continues. In addition, from time to time there have been meetings between the Hindustan Steel Limited and the Railway Board to review the production programme of wheel-sets. In this connection, it is pertinent to point out that COS (BI), Eastern Railways, is the co-ordinating agency between the producers and the users of wheel-sets. The monthly meetings have been held at his level regularly and occasional meetings have also been taking place between Hindustan Steel Limited and the Railway Board. It is relevant to draw attention to the discussions held on 9-9-1976 at Railway Bhavan New Delhi when the Railways were given clear indications that the Hindustan Steel Limited would be increasing the production of wheel-sets particularly of 20.3 RB sets and that Railways would accept the increased supplies (*vide* para 1.1 and 3.0 of Item 2 of the minutes of the meeting—reference 72/RSP/962/HSL/1 dated 5-10-72).”

1.93. Referring to the Railway Board's contention that even the commitment made by the Steel Secretary in March, 1975 was for 450 wheel-sets only, the Department of Steel have, in a note, stated:

“However, even admitting that the railways went by the committed figures, it may be mentioned that the commitments were valid for the period April—September 1975

only and not beyond this period, while even prior to September'75, production had picked up and the despatches to the Railways were much higher."

1.94. In regard to the trends of production at the Durgapur Steel Plant, during the relevant period the Department of Steel, have, in a note, stated:

"Railways were fully aware of the improving trends of production of wheel-sets at Durgapur Steel Plant which were made known to COS (BI), Eastern Railway, in the regular monthly meetings. Apart from this, a Resident Inspector of the Railway Board (RDSO) stationed at Durgapur used to get regular information from DSP in the matter of production and despatches of various types of wheel-sets.

The contention of the Railway Board is that the Durgapur Steel Plant witnessed dramatic improvement in the production of wheelsets as a result of emergency. The emergency was enforced in June, 1975 while the production had actually picked up from June, 1974 itself as will be evident from the following figures—

Period	20—T Wheel-sets per month (average)
December 73 to May 74	282 Nos.
June 74 to March 75	667 Nos.
April 75 to Sept. 75	772 Nos.
October 75 to March 76	1028 Nos.

Thus, irrespective of the commitment made, the production of 20-T wheel-sets had gone up. It would not be fair to say that it had not been brought to the knowledge of the Railways, as explained above. The higher despatches made to the Railways must also be within their knowledge."

1.95. The figures as furnished by the Department of Steel regarding the total production of wheelsets at Durgapur Steel Plant, and despatches to the Railways during the years 1974-75, 1975-76 and

1976-77 are given in the table below:

	PRODUCTION			DESPATCH		
	1974-75	1975-76	1976-77	1974-75	1975-76	1976-77
April . . .	317	701	1088	209	464	1275
May . . .	393	770	1108	623	524	970
June . . .	610	809	829	506	753	844
July . . .	822	914	1020	825	799	990
August . . .	831	1129	650	600	810	810
September . . .	716	954	858	416	71	1030
October . . .	706	1043	1009	695	974	915
November . . .	680	1228	881	630	1045	846
December . . .	615	1230	1045	560	1063	809
January . . .	768	1235	826	600	930	872
February . . .	690	1009	472	764	1020	879
March . . .	859	1301	583	676	750	618
<b>TOTAL</b> . . .	<b>8,007</b>	<b>12,323</b>	<b>10369</b>	<b>7,104</b>	<b>9,703</b>	<b>10,858</b>

1.96. It is seen from the above that the total production of wheel-sets (of all categories) showed considerable increase from the month of June, 1974 *vis-a-vis* the production in the months of April and May 1974. Similarly the despatches of wheelsets to the Railways in the relevant period normally June, July, August, 1975 did show noticeable improvement when compared to the immediately preceding months of April and May 1975.

1.97. Commenting on the Department of Steel's statement that the production of wheel-sets at Durgapur Steel Plant had picked up from July 1974, the Ministry of Railways have in a note stated:

"Department of Steel have also stated that the production had actually picked up from June, 1974 itself. While we are not aware of the production figures the despatch figures detailed below do not bear this out in that despatches were erratic and there was a steep decline in despatches in March and April 1975 *viz.*, 348 and 380 wheel-sets only:



Month	No. of 20 Ton Wheelset despatched by HSL		
	1974	1975	1976
June . . . . .	340	630	750
July . . . . .	770	590	750
August . . . . .	510	670	710
September . . . . .	440	550	750
October . . . . .	620	900	400
November . . . . .	650	990	560
December . . . . .	470	910	70
January . . . . .	470	862	190
February . . . . .	670	670	290
March . . . . .	590	850	50
April . . . . .	348	770	90
May . . . . .	380	758	250
<b>TOTAL . . . . .</b>	<b>5258</b>	<b>5150</b>	<b>4860</b>
<b>Average . . . . .</b>	<b>522</b>	<b>763</b>	<b>405</b>

1.98. The Ministry of Railways have further stated as under:

“Department of Steel have furnished average production figures for this wheel set for the period between December, 1973 to March 1976. The despatch figures are more relevant and the average of despatch figures are shown below in juxtaposition:

Period	20 T. Wheelset per month (average) production	20 T. per month (average) despatches
Dec. 73 to May 74 . . . . .	282 nos.	328
June 74 to March 75 . . . . .	667 nos.	553
April 75 to Sept. 75 . . . . .	772 nos.	528
October 75 to March 76 . . . . .	1028 nos.	864

It would, therefore, be seen that the real break through in production was achieved after October, 1975 and not in June, 1974 as argued by the Department of Steel.”

1.99. The Committee desired to know what were the total despatches of wheelsets from the Durgapur Steel Plant to the Railways in the months of July and August, 1975. A representative of the Department of Steel informed the Committee in evidence that the total despatches during the months of July and August, 1975 were 799 and 810 wheel-sets respectively and out of these supplies 708 and 732 numbers were of 20 tonne wheelsets.

1.100. The Committee enquired whether the Railway Board had ascertained from the Hindustan Steel Limited or Steel Authority of India Ltd. the production programme and deliveries of wheelsets from the Durgapur Steel Plant from September, 1975 onwards (as the earlier commitment by the Secretary, Department of Steel was for the period April—September, 1975) and at least programme of supplies for 1976-77 for which procurement decision was taken in July-August 1975. The Committee also asked how could the Railway Board assume in July-August, 1975 while placing the orders for 1976-77 that production and supply of wheelsets from Durgapur Steel Plant either during October 1975—March, 1976 or from April 1976 onwards would continue to remain at the level of supplies upto September, 1975 *viz.*, 450 Nos. per month. In a note, the Ministry of Railways have stated:

“It was not the practice to specifically, enquire from Durgapur Steel Plant or the Ministry of Steel regarding the likely supplies by the DSP before finalising each and every import. These assessments were based on the performance of DSP who were supplying about 450 Nos. of 20.3 tonne wheel-sets per month.

In spite of constantly urging the officials of DSP in the periodical meetings no commitment for higher rate of supply was forthcoming and, therefore, in his letter dated 10-10-1974 addressed to Secretary, Ministry of Steel and Mines, Chairman, Railway Board urged that DSP may be asked to supply 5,000 wheelsets during the period October 74—March 75 and 7,500 Nos. during the period April 75 to Sept., 75. This request had been made at the highest level with a view to ascertaining the best that DSP could do. In two communications received from Secretary, Department of Steel dated 15-1-75 and 17-3-75 the Secretary, Department of Steel stated that he can commit supplies only at the level of 600 Nos. per month, of which 450 Nos. would be of 20.3 tonne variety. In view of this categorical indication there was no reason for the Ministry of Railways to expect any significant increase in the supplies.

It was in this background, therefore, that it was not considered necessary to make a special reference to the Department of Steel before finalising the arrangement for 1976-77. It might be submitted that Department of Steel did not give any indication that they were going to increase production in a significant manner.”

1.101. The Committee enquired whether the Durgapur Steel Plant had written any letter to the Railways during 1975-76 about the production of wheelsets in the Plant. A representative of the Department of Steel stated:

“There is a monthly coordination meeting held by a senior officer who is designated as Controller of Stores who is stationed in Calcutta. So, the information was completely available.”

1.102. The Chairman, Railway Board stated in evidence:

“HSL sends us letters periodically giving us the detailed position of supplies of wheelsets to Railways.”

1.103. The relevant extracts from a letter No. J.22011/4/73-DUR, dated 9-5-1975 from the Joint Secretary, Department of Steel to the Member Mechanical Railway Board, which has been made available to the Committee, are given below:

“We have been informed by the Durgapur Steel Plant that they do not have adequate orders for wheelsets from the Railways. As on the 11th April, 1975, the pending orders from the Railways with the Durgapur Steel Plant were 800 sets for 20 tonnes wheelsets and 250 sets each for 12 tonne and 10 tonne wheelsets. The order had further come down to 400 sets of 20 tonnes wheelsets by the 26th April, 1975. The Plant authorities have reported that, in spite of a request from them for more orders from the Railways, they have had no reply.”

1.104. During evidence the Committee enquired whether the Railway Board had written any letter to the Hindustan Steel Ltd. in regard to the production of 20 tonne wheelsets after the earlier exchange of correspondence between the Chairman, Railway Board and the Steel Secretary. To this the Chairman, Railway Board replied in the negative.

1.105. In reply to another question whether in view of the marked difference between the prices of indigenous and imported supplies of wheelsets, the need for conserving foreign exchange and the desirability of increasing the indigenous production any attempt was made to make enquiries from the Hindustan Steel Ltd., the Chairman, Railway Board stated:

“The trend was considered in May.”

1.106. On being pointed out that there was improvement in the months of June, July and August, the witness added:

“Very slightly. We have to view it in the background of a production capacity of 40,000. If Durgapur had been producing wheels, we would not have been importing wheels and saving Rs. 20 crores. Then whatever Durgapur produced we did not peg it down to 400. We accepted whatever they produced. Even though we said 450, right from January we have been accepting more than 450.”

1.107. To a question whether the supplies from the Durgapur Steel Plant had been under-estimated, the Chairman, Railway Board, stated:

“One can call it an under-estimate. We estimated it on a certain basis.”

1.108. During evidence the Committee asked whether it would not have been desirable if the Tender Committee had recommended placement of order for a smaller quantity and had retained an option to order more wheelsets at a later date. The Chairman, Railway Board, stated:

“There was no option in this tender. Suppose we did not take this tender and another tender had been there, there would have been criticism. I am only saying that a conscious decision was taken whatever has been the performance. Upto May in the last year if you take Durgapur's performance there has never been production much in excess of whatever we have assumed. That was the background in which decision was taken.”

1.109. On being pointed by the Committee that care was taken to protect the interests of wagon builders by ordering more wagons but no such effort was made to consider the position of the indigenous wheelsets industry, the Chairman, Railway Board, stated:

“We did not see socio-economic conditions.”

1.110. According to the Audit paragraph a review of the stock and order position made by the Railway Board in November, 1975 had revealed that taking into account the availability and requirements of wheelsets for the year 1976-77, the Railway Board will be left with a surplus to the extent of 6,335 wheelsets even if the Durgapur Steel Plant continued to supply at the previous rate of 450 wheelsets per month. The Committee enquired what was the occasion for the Rail-

way Board to review the stock and order position of wheelsets in November, 1975. In a note, the Ministry of Railways have stated:

“Compared to an average supply of about 500 Nos. of 20 ton wheelsets per month during the period April—September, 1975, HSL stepped up supplies in October '75 to 900 Nos. In the monthly progress meetings held at Calcutta during September 1975 and October, 1975, they had indicated that they would be supplying 1000/1100 Nos. of 20 ton wheelsets. Therefore, a review was made in November, 1975 to assess the extent to which supplies in excess of the earlier committed level of 450 per month from HSL could be accommodated.”

1.111. The Committee enquired whether the increased production plan of the Hindustan Steel Ltd. was based on any understanding given by the Railways in that it should concentrate on maximising production of 20 ton wheelsets and whatever they could supply over the earlier commitment of 450 sets per month would be acceptable to the Railway Board. The Department of Steel have, in a note, stated:

“In the meeting on 23-4-74 (*vide* Item 2 of the Minutes—Ref. 72|RSF|962|HSL|1 dated 10-5-74) the Railway indicated their requirement of 20.3 T.R.B. Wheelsets during 1974-75 as 20,000 Nos. It was also pointed out by the Railways that over and above order for 5000 Nos. of 20.3 T.R.B. wheelsets for 1974-75, the Railways were prepared to place further order to cover DSP' production of 1974-75 (Item—6 of the minutes of the above meeting).

During the meeting of 9-9-74 clear indications were also given by the Railways that increased production of 20.3 T.R.B. wheelsets at the level of 700 to 800 sets per month would be acceptable to the Railways.

Also during the deliberations (July and August 1975) of the JPC Sub-Committee which was constituted to examine the prices of wheelsets, the Railway projected still increased demand of wheelsets to the extent of 30,000 Nos. —75 per cent of which were spelt as 20.3 T.R.B. category. These figures were placed by the Railways at the Committee against Hindustan Steel Limited's query on 24th July, 1975.”

1.112. It is seen from the Audit Paragraph that in November, 1975, the Railway Board approached the Hindustan Steel Ltd. to peg the supplies of indigenous wheelsets at 450 sets per month and also requested that manufacture of this item might be regulated and the balance capacity of the plant utilised for manufacture of other types of wheels and axles. Explaining the circumstances leading to imposition of restrictions on the production of 20 ton wheelsets by the Hindustan Steel Ltd., the Ministry of Railways have, in a note, stated:

“During the discussions held on 25-11-1975 between the representatives of Hindustan Steel Ltd. and the Railway Board, it was impressed upon the HSL’s representatives that due to substantial curtailment of wagon production programme during 1976-77 a sizeable quantity of imported wheelsets would remain unutilised by the end of 1976-77 and if HSL supplies at a level higher than 450 Nos. per month, it would make matters worse. They were requested to supply 20 ton wheelsets at the level of 450 nos. per month and utilise their balance capacity for the supply of 22.9 tonnes and BEML wheelsets as well as loose wheel and axles.”

1.113. During evidence the Chairman, Railway Board stated:

“We requested them to regulate the 20 tonnes supplies. I must say that they responded as soon as they could do. Our objective was that they cut down 20 tonnes and give us the other items. So they did give the other items to us. So, the moment they could cut from 20 tonnes supplies, they cooperated with us. They said: ‘All right, we appreciate that the moment we could cut in, we will cut in.’ In 1976-77 in addition to giving us 20 tonnes wheel sets, they gave us other types of wheel sets, which we would have imported if they had not given us.”

1.114. When the Committee asked whether the imposition of restrictions on the manufacture of 20 tonnes wheelsets created any problem for the Durgapur Steel Plant, a representative of the Department of Steel stated:

“The bulk of the production of Durgapur is 20 tonnes. If you do not take that production and utilise it, the men have to remain idle.”

1.115. In the same context the representative of the Department of Steel stated:

“The railways asked us to manufacture loose wheels and loose axles. Durgapur wheel and axle plant is originally designed and laid out for producing assembled wheel sets, and not loose items. This is an important thing. Subse-

quently, we were asked to diversify and make loose items. It means our Assembly Section, where these wheels and axles are put together, the section where it subsequently goes for spinning test, minor rectification, inspection and subsequently for mounting of the axle box, all those sections had to remain under-utilized on this account, which means about 200 people."

1.116. It is understood that the Railway Board had in January 1977 cancelled order for 1500 Nos. of wheelsets out of the 3116 wheelsets and postponed delivery schedule of 1616 wheel sets due to be supplied by the Japanese firm. In this context, the Committee asked whether it was not indicative of the fact that the estimation of wagon production for 1976-77 and the wheelsets was on the high side and the supplies from the Hindustan Steel Ltd., had been under-estimated.

In a note, the Ministry of Railways have stated:

"When requirements of 20 ton wheelsets for wagon production during 1976-77 was estimated in May/June 1975, the forecast for wagon production in 1976-77 was 14,500 wagons in terms of four wheeler units. It was considered necessary to raise production during 1976-77 to this level to get a total of 77,000 wagons in the 5th Plan period, failing which it would not be possible to meet the traffic requirements fully. This level of production was projected in the memorandum submitted by Ministry of Railways in April '75 for the Cabinet meeting and also in the Ministry of Railways' discussions with IDA Mission in March/April, 1975 for IDA credit for 1975-77. Under these circumstances, adoption of 14,500 FWs as anticipated production for 1976-77 was not on the high side. It could not be foreseen at that time (May/June 1975) that the financial constraints would continue and that the Planning Commission would be making a drastic reduction in the wagon production target for 1976-77. This was known only in January, 1976.

The actual supplies of 20 ton wheelsets from HSL during 1973-74 and 1974-75 were only 5080 and 6260 respectively. During these periods, despite repeated requests at different levels, HSL were not able to raise their production substantially. During this period there was large scale stabling of wagons with wagons builders due to inadequate availability of wheelsets. In response to a reference made to Secretary, Steel, he informed us in Jan. '75 and again in March '75 that HSL could not be committed for

supplies in excess of 450 wheelsets per month. At that time, neither they gave any clear indication to us about their plans to raise the production nor could we imagine (based on their previous performance) that they will be able to achieve a dramatic improvement in their performance. Under these circumstances, adoption of 450 per month (May/June 1975) as estimated supplies from HSL, cannot be considered an under-estimate."

1.117. The Audit paragraph mentions that ordering of 9,144 wheelsets in August, 1975 on the basis of higher estimation of wagon production during 1976-77 resulted in excessive inventory of 6,335 wheelsets over and above the buffer provision of 3,176 sets. This excess inventory increased because of increased supply from the Hindustan Steel Ltd. This excess import also entailed extra expenditure of Rs. 7.35 crores. The Committee asked how did the Railway Board justify placement of order of 9,144 wheelsets in August, 1975. The Ministry of Railways have, in a note stated:

"The figure of excessive inventory of 20-ton wheelsets as referred to by the Audit is based on the review made by the Railway Board in November, 1975. The review assumed wagon production of 11,500 wagons in terms of 4-wheelers per year during 1975-76 and 1976-77. Since actual production during these years was 12,176 and 11,982 wagons respectively, and the delivery of 3,116 Nos. wheelsets due from Japanese firm was deferred beyond 1-4-1977 (1,500 Nos. of which was subsequently cancelled) the actual inventory as on 1-4-77 was considerably reduced in spite of excess supplies from HSL to the extent of 3,598 Nos. The stock of 20 ton wheelsets as on 1-4-77 was 6,148 wheelsets. The excess inventory was only 2,972, after setting aside a buffer provision of 3,176 wheelsets. But for the excess supplies of 3,598 wheelsets from HSL during 1975-76 and 1976-77 (*vis-a-vis* the estimated receipts of 10,800 wheelsets corresponding to 450 wheelsets per month) there would have been no excess inventory as on 1-4-77.

The requirements of 20T wheelsets for wagon production during 1975-76 and 1976-77 to be arranged through imports were estimated as 19,400 in May/July 1975 and against this import orders were placed in August 1975 only for 18,288 Nos.—9,144 Nos. each on French and Japanese firms. The requirements to be imported were worked out taking into account Ministry of Steel's indication that HSL cannot be committed to more than 450 wheelsets per month.



On this basis the import ordering of 18288 wheelsets in August 1975 (including the 9144 sets on the Japanese firm) was justified."

*Emergency Purchase Order on Japanese Firm*

1.118. The Audit para mentions that on 11th April, 1974 (at the same time the first order for 5,715 wheelsets had been placed on the French firm) an emergency purchase order for 4,000 wheelsets was placed on a Japanese firm (M/s Sumitomo Metal Industries). This was treated as a repeat order and the price payable was the same as in an earlier contract of January, 1973. The Committee asked whether the Railway Board had invited any quotation from the Japanese firm for the emergency purchase and if not, what was the occasion for the Japanese firm to offer supply at the earlier contract price of January, 1973. In a note, the Ministry of Railway have stated:

"Global Tender GP 72 was opened on 30th October, 1973. The lowest offer was from M/s Cruset Loire, France at C&F Calcutta rate of \$591. M/s Sumitomo were the next (for 6000 Nos.) at C&F Calcutta rate of \$665.37 (Yen 176.077). It became apparent to M/s Sumitomo that they would not get any order against this tender and, they on their own, on 30th November, 1973 offered to supply 6000 wheelsets on their last contracted rate namely f.o.b. Japan Yen 135,800. In January 1974 the Tender Committee held the view that the revised offer of Sumitomo cannot be entertained and recommended placement of order on the lowest French tender."

1.119. The Committee enquired how was the quantity of wheelsets for the emergency purchase determined and during what period of manufacture of wagons by the wagons builders were the 4000 wheelsets intended to be delivered for which repeat order was placed on the Japanese firm in April, 1974. The Ministry of Railways have stated:

"In February, 1974 it appeared that even if order is placed on the French firm during March 1974, the supplies from this source could not be expected to reach the wagon builders until September, 1974 due to longer transit time from the continent. A projection of the likely availability of the wheelsets (both from Durgapur and from the French firm) as well as the likely requirement was made and it was apparent that there would be a large scale

stabling of wagons during the period May 1974 to January 1975, In order to overcome the stabling of wagons, an emergent purchase of 2,894 wheelsets seemed necessary. In this background considering that the shipments from Japan would take less time, Sumitomo were asked whether their offer of November 1973, for supply of wheelsets on repeat order basis, was available. On 26.2.1974, Sumitomo advised that their offer was still open but for a reduced quantity of 4,000 Nos. only. They also stated that first consignment will be ready for shipment by 20.6.1974 at the rate of 500/1000 Nos. per month provided the Japanese National Railways inspection is not insisted upon and the inspection is entrusted to the firm itself. However, the Board insisted upon inspection by the JNR and acceptance cable for 4,000 Nos. was issued on 27.3.1974. It was also held that the extra provision of 1106 wheelsets (4000-2894) would provide cushion in case of any slippage in supply on the part of French firm. Detail of the wheelsets as received in the Indian Ports from the two sources is given below month-wise:—

Month	From French firm	From Japanese firm
July, 74	..	500
August, 74	..	..
September, 74	1019	1150
October, 74	..	100
November, 74	1200	1300
December, 74	381	300
January, 75	859	480
February, 75	..	110
March, 75	1500	60
April, 75	665	..
November, 75	91	..

It would be seen from the above that the emergency purchase made from Sumitomo was indeed very helpful in reducing the incidence of stabling of wagons.”

1.120. It is noted from the Audit paragraph that in response to the global tender invited in May, 1975 for purchase of 9,144 wheelsets at the risk and cost of the French firm the offer of the Japanese firm (M/s. Sumitomo Metal Industries) was the lowest namely Rs. 7,457.14 f.o.b., per wheelset. After arriving at a settlement with the French firm orders were placed on that firm for the supply of 9,144 wheelsets at a rate of Rs. 6.010.68 f.o.b. per wheelset. Simultaneously the Railways had placed an order on the Japanese firm for supply of additional 9,144 wheelsets to cover the requirements of 1976-77. The price settled with the French firm was lower than the price quoted by the Japanese firm in the tender. The Committee enquired why could not the order of August, 1975 for 9,144 wheelsets relating to the requirements of 1976-77 be also placed on the French firm whose negotiated rate was cheaper than the price quoted by the Japanese firm. In a note, the Ministry of Railways have stated:

“The French firm offered to supply the wheelsets at the negotiated price only for the disputed quantity which they were required to supply under the previous contract i.e. 9144 Nos. In view of the rising prices in the world market, which is borne out by the fact that the French firm quoted higher rates than Sumitomo in the Risk Tender, the French firm would not have agreed to supply the requirements of 1976-77.”

1.121. The Committee desired to know if any further orders had been placed on the Japanese firm after the order of 9144 wheelsets placed in August 1975. From the information made available to the Committee it is seen that apart from the orders for the supply of Axles the following 3 orders for the supply of wheels have been placed as per details given below:

Contract No. and Date	Quantity	Total f. o. b. Value (Rs.)
1. 76/Rs (WTA)-78/W/874 VIII dated 25-10-76.	3835	1,20,58,587.00
2. 76/RS(WTA)-78W/874/ X dated 29-11-1976.	324	10,19,053.00
3. 77/RS(WTA)-85/W/874/ XIX dated 19-5-1977	7856	2,67,76,502.00

1.122. The Committee were informed that these orders were placed on the Japanese firm on the basis of their offers being the most competitive against global tenders invited by the Ministry of Railways. The Committee enquired whether the orders placed in these three cases were for quantities for which tenders were floated. They also

desired to know the details of variations, if any, and the financial magnitude thereof. In this connection, the Ministry of Railways have furnished the following details:

Item No. Tender No.	Quantity; tendered	Quantity included in the contract	Increase/ decrease	Value of the quantity	Remarks
WTA-78 (1)	3020 Nos.	3335 Nos.	(+)315Nos.	9,90,360	The quantity was increased as desired by the Railways.
WTA-85 (3)	5707 Nos.	7856 Nos.	(+)2149Nos.	73,25,941	Railways advised additional quantities subsequently.

1.123. The Committee note that for the requirements of wheelsets for 1974-75, the Ministry of Railways had floated a tender on 19-9-1973 for supply of 11,430 wheelsets with an option to increase the quantity by 30 per cent. In response to this tender the lowest offer received was from a French firm (Creusot Loire) who had offered to supply the wheelsets at the rate of Rs. 4,022.26 F.O.B. per set. Initially this offer of the French Firm was valid upto 29-1-1974. On 10-1-1974 the Tender Committee had recommended that contract of 11,430 wheelsets with option to order additional 30 per cent may be placed on M/s. Creusot Loire, France. The relevant file containing the recommendations of the Tender Committee and the decisions of the Railway Board was sent on 14-1-1974 by the Board to the Minister of Railways, who was the competent authority for the approval of such proposals involving expenditure of more than a crore of rupees.

1.124. The Committee find that after the file had been submitted to the Minister of Railways on 14-1-1974 for necessary orders, the file shuttled between the Railway Board and the Minister for more than two months. In between the Minister had raised several queries and asked for special reviews in regard to the quantity of wheelsets to be procured against the tender. At one stage even the French firm had been asked to reschedule their deliveries by making the same quicker and in larger instalments. It has been stated during evidence that meanwhile a letter dated 15-3-1974 from the Trade Representation of the Socialist Republic of Rumania in India addressed to the Director, Railway Stores, Railway Board had been received by the Minister directly. In this

letter the Trade Representation had regretted that they had overlooked the advertisement of the tender and that they were very anxious to quote against this tender on the basis of payment in Indian rupees. They had also requested the Railway Board to wait for a few days to enable them to submit the quotation. However, since the tender could not be finalised within the period of validity, the French firm was asked to keep their offer open on as many as five occasions. Ultimately on 23-3-1974, the Minister of Railways directed that order should be placed on the French firm for 50 per cent quantity (5715 Nos.) and for the remaining 50 per cent., the possibility of getting these wheelsets from Rumania should be explored.

1.125. On 26-3-1974, the Railway Board sent a cable order for 50 per cent of the tendered quantity (5715 Nos.) retaining the option to order additional 30 per cent of the tendered quantity viz., 3429 wheelsets during the currency of the contract and also asking the firm to keep the offer for the balance 50 per cent open for four months, i.e., upto 25-7-1974 to which the firm had agreed. The formal contract was placed on the firm on 11-4-1974. On 27-3-1974 a copy of the tender had also been sent to the Trade Representation of the Socialist Republic of Rumania requesting them to submit their quotations early. Simultaneously the Indian embassy at Bucharest was asked to contact the firm and request them to send the quotation. After a lapse of more than two months intimation was received on 5-6-1974 that there was no possibility of getting wheelsets from Rumanian source. Action was then initiated and papers were resubmitted to the Minister on 18-6-1974 suggesting that orders for the optional quantity of 30 per cent (3429) and additional quantity of 50 per cent (5715) might be placed on the French firm before the target date, namely, 25-7-1974. This file was returned by the Minister only on 22-7-1974. While agreeing with the proposals put up by the Railway Board for placing further orders on the French firm, the Minister had in his note added the following rider:

“However, I came across a news-item in the Economic Times 2/3 days ago that there is general recession in the New York Market. In this background would it not be advisable to go in for fresh tender? I think we should.”

1.126. The file was received by the Board on 24-7-1974, i.e., just one day before the date till when the French firm had been asked to keep open their offer for supply of additional quantity of wheelsets. On the same date the Board had decided that “in view of the

fact that US based firms hardly responded to our global tenders for this type of items" orders for 5715 numbers of wheelsets be placed on the French firm. A telex acceptance was issued to the French firm on 24-7-1974, which the latter claimed to have received only on 26-7-1974, i.e., a day after the last date for receipt of orders for additional quantity was over. Though, according to the Railway Board the order had been placed within the stipulated time, the firm repudiated this claim. In short they declined to accept the order as the same had in their opinion been delayed. After protracted correspondence the Railway Board were obliged to cancel this order as well as the order for 30 per cent of the tendeed quantity, viz., 3429 Nos. placed in November, 1974, at the risk and cost of the firm. The Committee find that against the tender floated subsequently for the purchase of  $(5715 + 3429 = 9144)$  wheelsets at the risk and cost of the French firm, the price quoted by the Japanese firm, whose tender was the lowest, was Rs. 4757 per wheelset as compared to the price of Rs. 4022 per set quoted by the French firm in their original tender. However, before global tenders had been opened, the French firm offered to make supplies provided the price stipulated in the previous contract was increased by half of the difference between the contract price and the lowest f.o.b. price to be received against the forthcoming tender, and the Railway Board as an expediency agreed to place the order again on the French firm. But this vascillation (from 5-6-1974 to 24-7-1974) resulted in an additional expenditure of Rs. 1.32 crores for the Railways. The Committee are distressed to find that the delay in placing the orders first after January 1974 on receipt of the Tender Committee's recommendations and later after 5th of June 1974 when it became clear that no supplies could possibly be had from Rumania has resulted in an avoidable expenditure of Rs. 1.32 crores.

1.127. Initially, in the context of the inflationary trends in the international market, following the oil crisis and the urgent requirements of the wagon builders the Minister had shown anxiety for ordering a larger number of wheelsets and also for expediting their supplies. As a matter of fact the French firm had once been asked at the instance of the Minister, to reschedule their deliveries so as to make them quicker and in larger instalments. Later on, however, the Minister appears to have had second thoughts and favoured the placement of an order on a Rumanian firm because he felt supplies could be forthcoming against rupee payments. After directing that order for only 50 per cent of the tendered quantity might be placed on the French firm, he had desired that

the possibility of getting the balance supply from a Rumanian firm against rupee payment might be explored. In fact it would appear from the evidence of the Member Mechanical, Railway Board, that special efforts were made to procure an offer from the Rumanian firm. It needs to be pointed out in this context that the Rumanian firm had never before participated in any offer for the supply of wheelsets to the Indian Railways and this was a well-known fact. When asked why did not the Railway Board bring this fact specifically to the notice of the Minister, the Chairman, Railway Board stated in evidence: "In fact, the Minister who was in the foreign trade knew about it. . . . . As officials, we cannot go over the Minister". Thus, since the Minister had so desired a belated request from the Rumanian firm for participation in the tender was taken into account and inquiries were made to ascertain if the Rumanian firm was in a position to make competitive offers for the wheelsets, even though it was known before hand that the Rumanian firm could not meet the Railways' requirements.

1.128. Subsequently, after it was known that the Rumanian firm was no longer in the picture, the Railway Board put up the proposals that the order on the French firm for the balance requirement of the Railways for the wheelsets-might be placed. The decision of the Minister was not available for more than a month despite two written reminders from the Railway Board. Thereafter he agreed to the reminders from the Railway Board. Thereafter he agreed to the proposals of the Railway Board but returned the file just 2 days before the target date. At that point of time, the Railway Board took a decision to place the order for the balance quantity on the French firm. Even then the peculiar predicament in which the Railway Board found itself could not be averted. Since the die had been cast and the order had been delayed, the Railway Board had to suffer an avoidable excess expenditure of Rs. 1.32 crores.

1.129. From the foregoing paragraphs it is clear that the Minister had evinced unusual interest in the processing of this case. After 14-1-1974, when the file was originally put up to him, the Minister had on 13-2-1974, i.e., after about a month, minuted that it might be considered whether it would not be advisable to go in for more quantity (the extended offer was due to expire on 16-2-1974). On 15-2-1974 when the Railway Board requested the Minister to accord his approval to the recommendations as the wheelsets were urgently required, the Minister ordered for a second look. The file was then resubmitted to the Minister on 16-2-1974 recommending

acceptance of Tender Committee's recommendations but on 5-3-1974, i.e., after about 20 days the Minister returned the file and asked for a review of the quantity to be ordered against the tender. On 13-3-1974, the file was resubmitted to the Minister for approval and after 10 days the Minister directed that in view of the fact that Rumanians were showing interest in supplying wheelsets, contract for 50 per cent quantity only might be placed on the French firm. This whole exercise took more than two months.

1.130. Further the exploration of the Rumanian source for the supply of wheelsets was only an exercise in futility as it was well known that the Rumanian firm had never participated in any earlier tender enquiry for this item. However, since the Minister had so ordered, the formalities of supplying tender documents and awaiting for the response of the Rumanian firm were undertaken which inevitably led to further delay. And even though the intimation about the inability of the Rumanian firm to supply any wheelsets was received on 5-6-1974 and the file had been put up to the Minister on 18-6-1974, the Minister passed orders on this file only on 23rd July 1974 and the file came down on 24th July, 1974, i.e., just one day before the date on which the extended offer was due to expire. The Committee do not find any justification for the delay at various stages. The peculiar manner in which the case has been handled at the Minister's level and at other levels render their intentions quite unclear to say the least. Under the circumstances the Committee recommend that this whole case may be referred for investigation to a specially constituted Judicial authority, which alone can adequately review the deeds of a Minister and others.

1.131. It is a little intriguing to note in this connection that in April 1975 when the Legal Adviser of the Railway Board had recommended that it would be advisable to arrive at a settlement with the firm, the Railway Board did not like this advice and decided to proceed with the risk purchase and face the difficulties in realisation of the extra expenditure from the French firm. Later on, however, after having floated the risk purchase tender and on receipt of a representation from the firm, the Railway Board considered it expedient to arrive at a settlement with the firm. The rationale for this volte face is incomprehensible keeping in view that in April 1975 the Railway Board had deliberately not accepted the advice of the Legal Adviser for the settlement with the firm. The explanation given for this change in the Railway Board's posture at a later stage is hardly convincing.



1.132. A direct consequence of the belated placement of order on the French firm was (i) an emergency purchase order for 4,000 wheelsets on M/s. Sumitomo Metal Industries, Japan on 11-4-1974 and (ii) procurement in advance of 9144 wheelsets from the same Japanese firm (M/s. Sumitomo Metal Industries) against the requirements for the year 1976-77. The emergency purchase of course did not lead to any financial loss because the price contracted for each wheelset was lower than the French offer, but inasmuch as the emergency purchase was for an extra quantity of wheelsets without corresponding reduction in the order over French firm it resulted in higher inventory. So far as the advance procurement for the year 1976-77 is concerned, the Committee find that just at the point of time when a settlement was being reached with the French firm, the Railway Board had also on hand the Japanese offer for supply of 9144 wheelsets received in response to the risk tender floated earlier. What the Railway Board did was that in July 1975, while deciding to place orders for 9144 wheelsets on the French firm, they also decided to procure the same number of wheelsets namely, 9144 from Japan to meet the requirements of 1976-77 wagon building programme. The Committee find that as per the normal practice the order for their requirements of wheelsets for the year 1976-77 should have been processed by the Railway Board by September/October 1975. It appears that Railway Board felt obligated to the Japanese firm to place order on them.

1.133. It is to be noted that since it had been decided to purchase 9144 wheelsets from the French firm at a negotiated rate, there was no need for taking further action at that point of time on the risk purchase tender, under which the Japanese had quoted a rate which was 31 per cent higher than the rate negotiated with the French firm. There is no indication to suggest whether the French firm had then been asked to quote for the additional 9144 wheelsets for which the order was placed on the Japanese firm. The Japanese offer in the context of the then prevailing circumstances cannot, therefore, be considered entirely unexceptionable. Further, the manner in which the requirements of the wheelsets for 1976-77 were calculated before placing the order on the Japanese firm also appears to be un-understandable.

1.134. It is seen that the requirements of the wheelsets for 1976-77 had been worked out on the basis of a projection of the anticipated production of wagons during 1976-77 at 14,500 four wheelers. The Committee find that the estimation of the wagon requirements for 1976-77 had neither been approved by the Planning Commission nor had it been finally adopted by the Railway

Board themselves at that point of time. The only positive indication in regard to the total wagon requirements for 1976-77 was that during the Ministry of Railways' discussions with IDA Mission in March/April 1975 for IDA credit for 1975-76, the production level of 14,500 wagons during 1976-77 had been accepted. In these discussions the representatives of the Ministry of Finance and Planning Commission were also stated to be present. In the light of the procedure normally followed in such cases the wagon requirements for each year were being discussed by the Railway Board with the Planning Commission alongwith the Annual Plan in the months of November-December of the preceding year. Thus the estimations regarding the wagon production for the year 1976-77 would have come up for discussion with the Planning Commission only in November/December 1975.

1.135. It is to be noted in this connection that in December 1974, when the wagon requirements for 1975-76 were placed before the Planning Commission, the Planning Commission had felt that the resources position was tight and hence the wagon requirements of the Railways for 1975-76 might be reduced from the level of 11,500 to 5,500 four wheelers. Since the Railway Board were not satisfied with this cut and insisted on larger allocation of funds so that the production level of wagons in 1975-76 could at least be maintained at the level of 1974-75 production, they were asked by the Planning Commission to prepare a note for the Cabinet on the subject. This note was discussed among the concerned Ministers on 2nd May 1975 when it was decided that the current rate of production of wagons i.e., about 10,000 wagons per year in terms of 4-wheelers be continued in 1975-76. An additional budgetary allocation of Rs. 25 crores was made for the purpose. In this meeting no final view of the requirements for 1976-77 was, however, taken. Keeping in view the thinking of the Planning Commission at the time it was presumptuous on the part of Railway Board to take it for certain that their projected requirements of 14,500 four wheelers for 1976-77 would be acceptable to the Planning Commission.

1.136. In fact, as is evident from the records made available to the Committee, the thinking in the Railway Board itself was that even during 1976-77, the wagon production will be of the same level as achieved in the earlier years of 1974-75 and 1975-76, i.e., about 11,000 to 12,000 wagons. Therefore, for the assessment of the requirements of wheelsets during 1976-77, the figure of wagon production was unjustifiably assumed as 14,500 four wheelers. It would appear that the requirements of the wagons were deliberately

highly inflated with a view to make sure that the maximum number of wheelsets required for these wagons were procured against the Japanese offer of 9144 wheelsets then pending before the Railway Board. It is interesting to recall that in regard to the quantity of wheelsets required, the then Additional member Finance had noted as under on the relevant file:

"On another file Financial Commissioner had suggested that, pending clarification of the position regarding availability of funds for 1976-77, we may assume that we shall procure 11,500 wagons in 1975-76 as we did in 1974-75 and requirements of wagons in 1976-77 could also be assumed at the same level but an option kept for ordering additional quantities to match the production of 14,500 wagons."

On this noting of the Additional Member Finance, the then Member Mechanical of the Railway Board had minuted as under:

"Ordering 14,865 wheelsets with an option of 3424 as suggested by Additional Member Finance will require discussions with the lowest tenderer for his agreement to this mode of purchase. This may create complications as happened in the previous case and will result in serious delays."

This would clearly show that the Railway Board's assessment of their requirements for wagons and wheelsets was both unrealistic and unwarranted.

1.137. The Committee further find that in their estimations of the requirements of wheelsets for 1976-77, the Railway Board failed to make a realistic assessment of the quantity of wheelsets that could be supplied by the Hindustan Steel Ltd. It has been stated that when the allocation of additional funds by the Planning Commission to maintain the level of production in 1975-76 at the level of 11,500 four wheeler wagons (i.e. 1974-75 level) became apparent, requirements of wheelsets upto 31-3-1977 were reviewed in June/July, 1975 and considering the likely supply of wheelsets during the two years of 1975-76 and 1976-77 to be received from the Hindustan Steel Ltd. as 10800 (450x24) numbers only, the requirements to be imported were assessed as 19400 wheelsets. However, the import order was placed for 18288 only. Thus in June/July 1975, while assessing the quantity of wheelsets expected to be supplied by the

**Hindustan Steel Ltd. the Railway Board do not appear to have made any conscious effort to ascertain from the Hindustan Steel Ltd. as to what extent they would be able to meet the Railways' demand either in the remaining months of 1975-76 or during 1976-77.**

**1.138. The basis on which the Railway Board appear to have concluded that supplies of this item from the Hindustan Steel Ltd. would continue to be at the rate of 450 per month till the end of 1976-77 was a communication from the Steel Secretary received in March, 1975. In this communication the Steel Secretary had indicated that for the period April, 1975 to September, 1975 the Hindustan Steel Ltd. could not commit itself to a supply exceeding 3600 sets out of which 2700 sets will be of 20 tonne wheelsets. In reply to a query from the Committee the Railway Board have stated that "it was not the practice to specifically enquire from Durgapur Steel Plant or the Ministry of Steel regarding the likely supplies by the Plant before finalising each and every import. These assessments were based on the performance of Durgapur Steel Plant who were supplying about 450 Nos. of 20.3 tonne wheelsets per month." In the same context the Railway Board have stated that. "It might be submitted that Department of Steel did not give any indication that they were going to increase production in a significant manner."**

**1.139. It is thus to be seen that in arriving at the total figure of supplies to be expected from the Hindustan Steel Ltd. the Railway Board have placed complete reliance on the commitment made by the Steel Secretary in March 1975. The fact that this commitment was valid for a limited period extending only upto September 1975 was completely ignored. Besides, all other pointers towards a likely step up in the monthly production of wheelsets at Durgapur Steel Plant were overlooked. It is seen that regular meetings were being held by the Ministry of Railways with the representatives of the Hindustan Steel Ltd. to review the production of wheelsets at Durgapur. In one such meeting held on 9th September, 1974 the Supdt. Wheels and Axles Plant, Durgapur had stated that production could be expected at the rate of 700 to 800 numbers per month although their commitment should be deemed at the level of 600 Nos. per month. The Railway Board had then given indication for accepting the increased supplies.**

**1.140. According to the Department of Steel, Railways were fully aware of the improving trends of production of wheelsets at Durgapur Steel Plant which were made known to the representatives of the Railways in the regular monthly meetings held in Calcutta. Apart from this, a Resident Inspector of Railway Board stationed at**

Durgapur used to get regular information from the Durgapur Steel Plant in the matter of production and despatches of various types of wheelsets. According to the Department of Steel irrespective of the commitments made for supply, the production of the wheelsets had gone up from June 1974 onwards. This is corroborated by the fact that except in the months of April and May 1975 when the despatches of wheelsets from the Durgapur Steel Plant were exceptionally low the monthly despatches from June 1975 onward were well above the committed figure of 450 per month.

1.141. As per the Railway Board's own calculations the average despatches during the period June 1974 to March 1975 and April 1975 to September 1975 were 553 and 528 numbers per month vis-a-vis the committed quantity of 450 sets per month. Further, from a letter issued by the Department of Steel in the month of May 1975, it is seen that the Durgapur Steel Plant had complained that they did not have adequate orders for wheelsets from the Railways and had accordingly requested for more orders from the Railways. During evidence the Chairman, Railway Board had also conceded that in the relevant period, i.e., in the months of June, July and August 1975, the despatches from the Durgapur Steel Plant had shown improvements even though he called them 'slight'. All these facts inexorably lead the Committee to conclude that the Railway Board overlooked the prospects of better production at Durgapur Steel Plant and without making any specific enquiries in regard to the likely supplies from the Plant during the next one and a half year, took the monthly figure of 450 sets for granted. It is significant to note that when the Committee pointed out that the care was taken to protect the interest of wagon builders by ordering more wagons but no such effort was made to consider the position of the wheelset industry, the Chairman, Railway Board admitted: "We did not see socio-economic condition."

1.142. This under-estimation of the capability of the Durgapur Steel Plant to produce more wheelsets coupled with the highly inflated assessment of the wagon production during the year 1976-77 led the Railways to make incorrect estimation of the import requirements of wheelsets for the year 1976-77. Just 2 months after the placement of orders in August 1975 on the Japanese firm for supply of 9,144 wheelsets, the Railway Board found in November 1975 that the production prospects of the Durgapur Steel Plant had brightened. This strengthens the doubt that the placement of order on the Japanese firm was to placate them. The Durgapur Plant had then come forward with an offer to step up the supply of wheelsets from a mere 450 to one thousand sets per month. A review of the stock

and order position had then revealed that the Railway Board would be left with surplus wheelsets in 1976-77 to the extent of 6,335 in addition to the buffer stock of 3,176 assuming that the Durgapur Steel Plant would continue to supply at the previous rate of 450 wheelsets per month and 16,236 if the plant stepped up its supplies to one thousand sets as promised. Frantic efforts were then made to cancel the outstanding import orders as also to persuade the Durgapur Steel Plant to regulate their production of wheelsets in such a manner that their monthly despatches did not exceed the earlier committed figure of 450 wheelsets. The Committee were informed by the Department of Steel that Durgapur Wheel and Axle Plant "is originally designed and laid out for producing assembled wheelsets and not loose items". "The bulk of production is 20 tonnes" wheelsets. The imposition of restriction would have resulted in underutilisation of the production capacity rendering manpower idle. The strategy of the Railway Board is indefensible."

1.143. As has been pointed out in the Audit paragraph the ordering of 9144 wheelsets at a cost of Rs. 10.63 crores (including foreign exchange of Rs. 6.82 crores) in August 1975, based on an estimate of higher level of wagon production for 1976-77 than that for previous year and in advance of the normal schedule of procurement resulted in excessive inventory of 6335 wheelsets over and above the buffer provision of 3176 sets. The Railway Board have explained that with the deferment of the delivery of 3116 numbers of the Japanese wheelsets beyond 1.4.1977 (1510 numbers of which had since been cancelled) the excess inventory had been reduced to only 2972 sets. Nevertheless this is an admission of the fact that the requirements of wheelsets had been highly inflated for reasons best known to the Railway Board. This over-estimation of the needs has to be considered in the context of enormous difference between the price of imported wheelsets and those procured indigenously. The price differential in the indigenous supply from the Durgapur Steel Plant (Rs. 3580 per set in November 1975) and the imported supplies from Japan (R. 11620 per set tender price—order of July 1975) is so wide that on a single set less imported. the Railways could have saved as much as Rs. 840 in foreign exchange. The total infructuous expenditure involved in unnecessary imports would thus run into several crores of rupees. The loss suffered by the Durgapur Steel Plant by regulating their production of the wheelsets according to the wishes of the Railway Board, which has not been separately assessed would also be considerable.

1.144. The Committee cannot but point out that the Railway Board ordered import of 9144 wheelsets from the Japanese firm in

August 1975 on the basis of an inflated assessment of the needs and requirements of the Railways without making a proper assessment of the production capability of the indigenous source of supply. It causes concern to the Committee that subsequently Durgapur Steel Plant were asked by the Ministry of Railways to regulate their production so that monthly despatches did not exceed 450 wheelsets. It is regrettable that the Railway Board took no care to negotiate in August, 1975 with the Japanese firm for arranging a lesser quantity of wheelsets nor did they consider it desirable to limit the immediate imports to a more realistic level and to retain an option for ordering further supplies in case of need. The Committee recommend that the matter may be investigated by an independent high powered body to ascertain the true facts and to fix responsibility for the various lapses that have come to light.

P. V. NARASIMHA RAO

NEW DELHI;

August 28, 1978

Bhadra 6, 1900 (Saka)

*Chairman*

*Public Accounts Committee*

## APPENDIX I

(See paragraph 1.86)

*Extract of votings in the files of the Railway Board in regard to Tender Committee proceedings.*

Extracts of notings taken from page 7-14/n of file No. 74|RSFP|962|19

1. Under consideration on this file are offers received against global tender GP-75 (opened on 23.6.75) for the procurement of 9144 Nos. 20.3 tonne wheelsets. This tender has been necessitated due to failure of the French firm M/s. Creusot-Loire to supply to optional quantity of 9144 Nos. ordered on them. IDA's prior permission was obtained for invitation of global tender at the risk and cost of the French firm.

1.1. Five offer (1 from Japan, 1 from South Korea and 3 from Europe) have been received. Abstract of the quotations, based on the exchange rate ruling on the date of tender opening, is kept at p.6/n.

1.2. Offers were sent to RDSO for technical appraisal and their comments are at S. No. 52.

2. The lowest offer (both on FOB and C&F basis) has been received from M/s. Cunitomo Shoji Kaisha, Japan, at unit FOB Osake/Kobe port price of Y261,000 (Rs. 7,457.14).

2.1. The firm's offer is strictly to the tender specification and drawings without any deviation. They have, however, stated that—

- (a) Pressfitting per 1mm of wheel seat shall be 400-520 Kg. as per IRS Specn. R-19-67.
- (b) Radius of the edges of outside dia of the boss (r: 10mm) and insider dia of rim of the wheel are estimated dimensions for rolling and when wheel is machined after rolling the radii of the edges shall be left as they are, so they need not be finished to the described dimension. (As per IRB's drawing No. SK69601 Note 4 for BG 22.9 tonne wheelsets).

RDSO have confirmed that the above is acceptable provided they dress up the edges to avoid sharp edges. The firm have since confirmed this. Therefore, firm's offer is technically acceptable.



2.2. This item was last purchased in April '74 at unit FOB price of FF 2168 (Rs. 4564.21) from M/s. Creusot-Loire, France. The lowest rate now obtained is 63.58 per cent higher than the last purchase rate.

3. Taking into consideration that recognised wheelsets manufacturers have participated and also the trend of prices as revealed in the recently finalised tenders for similar items, the Tender Committee recommend acceptance of the lowest rate of Y261,000 (Rs. 7,457.14).

4. The firm desires 100 per cent payment at sight by irrevocable and confirmed Letter of Credit. As those payment terms have already been accepted in earlier contracts (WTA-71, WTA-72, WTA-73 & WTA-74), we may agree in this case also.

4.1. Inspection may be entrusted to the Second Secretary Embassy of India, Tokyo, Japan.

5. M/s. Sumitomo Shoji Kaisha have quoted on behalf of their manufacturers M/s. Simitomo Metal Industries, Japan. Formal order may be placed on M/s. Sumitomo Metal Industries. Other terms and conditions shall be as applicable in the previous contract, viz., No. 74|RSF|962|18 dated 6-2-1975.

6. If purchase of the above 9144 Nos. is to be deemed at the risk and cost of M/s. Creusot-Loire, France, the extra expenditure of about Rs. 264 lakhs, that we would have to pay in purchasing these wheelsets from Japan, will have to be recovered from M/s. Creusot-Loire.

6.1. It may be pointed out that at our instance C.A.O./London has already withheld approximately Rs. 115 lakhs out of the bills submitted by the firm for shipments already made against the contract of the initial quantity of 5715 wheelsets.

7. Although the earlier contract on M/s. Creusot-Loire has been terminated for processing the risk purchase and the firm has been advised that purchase of 9144 Nos. at their risk and cost is being processed, the firm *vide* their letter dated 21-6-75 (i.e., before the opening of the risk purchase tender) have requested that they may be granted an increase in the price taking into consideration the fact that their inability (to supply the wheelsets) has been purely due to the rather unusual circumstances of rapidly rising raw material and labour costs brought about under unprecedented inflation. They have further requested that these unusual conditions could not be foreseen by anybody and should be deemed as "Force

Majeure". They have proposed that the previous contract price (FF 2168 FOB) be increased by half of the difference between the contract price and the lowest unit FOB price to be received against GP-75, subject to a maximum ceiling of 35 per cent over their contract price and subject, however, that the increase is not than 25 per cent.

7.1. On the basis of the lowest rate received from Sumitomo in GP-75 it would mean that M<sup>s</sup>. Creusot-Loire are asking for the price to be increase from FF 2168 to FF 2855, i.e., an increase of about 31.69 (half of 63.38 per cent).

7.2. It may perhaps be pertinent to point out that—

- (i) in their telex dated 26-4-76 they had asked for a price increase of 35 per cent while refusing to accept the order for 5,715 Nos. placed under the option clause;
- (ii) subsequently, in November 1974 they asked for a price increase of 65 per cent;
- (iii) in their proposal of 13-2-75, the firm had offered to supply the first slab of 1750 Nos. without any price increase, the second slab of 3700 Nos. with a price increase of 60.5 per cent. If the supply of next 3694 Nos. was insisted upon, they wanted a price increase of 77.6 per cent for that quantity, in which case, however, the price increase applicable for the second slab of 3700 Nos. would be 49.4 per cent. On the basis of this proposal the average price increase for 9144 Nos. including 1750 at the contract rate, worked out to 51.5 per cent.

We have been consistently turning down their requests for price increase as the contract originally entered into was on firm price basis.

8. The following facts, however, merit special mention:—

- (i) the tender (GP-72) was floated on 19-9-73 and opened on 31-10-73. The original offer of the firm was valid upto 29-1-74. Since the tender could not be finalised within the period of validity, the firm was asked to extend their offer on five occasions which they readily agreed and the order was placed on 11-4-1974.
- (ii) The tender was floated for 11,430 Nos. However, order was placed only for 50 per cent quantity, viz., 5715 Nos.

and the firm was requested to give us 4 months' option to order the remaining 50 per cent quantity. Although our request for giving the said option was outside the framework of the tender, the firm readily agreed.

- (iii) Should we decided to go ahead with the risk purchase an amount of Rs. 264 lakhs approximately will have to be recovered from the firm L.A. is of the opinion that it may not be prudent to litigate with a firm not based in India and even if we secure a decree, its execution in a foreign country will present considerable difficulty. He has, therefore, suggested for consideration whether it would not be advisable to hammer out an amicable settlement.
- (iv) The price increase of 31.69 per cent now being asked by the firm is the lowest of the various price increases that they have been asking for since July 1974, as referred to in para 7.2 above.
- (v) An amicable settlement with M/s. Creusot-Loire may ensure their continued participation in our future tenders resulting in a good all-round competition, considering that there are limited suppliers of this item in the world.

8.1. The Tender Committee have taken the above facts into consideration and are of the view that instead of seeking a legal solution, the balance of advantage may be in our favour if we reach an amicable settlement by agreeing to increase the price to the mid point between the old contract price and the acceptable price against the global tender. This would mean additional liability of about Rs. 132 lakhs for 9144 Nos. wheelsets as against additional amount of Rs. 264 lakhs by ordering on the lowest tenderer (Sumitomo) against global tender at the risk and cost of Creusot-Loire. Although we have withheld Rs. 115 lakhs, the recovery of Rs. 264 lakhs can be enforced only through a decree in a court of law. L.A. is of the opinion that execution of the decree in a foreign country will present considerable difficulty.

9. Considering the above aspects and subject to IDA and MOF's approval, the Tender Committee recommends an amicable settlement with M/s. Creusot-Loire in which case there will be no need for risk purchase.

10. Requirement of this item for 1976-77 has been reviewed. The net quantity to be imported after taking into account procurement of 9144 Nos. as proposed above, based on a production level of 14,500 FWs during 1976-77, the requirement would be 10,260 Nos.

Normally, for 1976-77 requirements, we would have floated a global tender around October 1975. Now that offers against GP-75 are in hand, Tender Committee are of the view that we may take advantage of the price and cover our 1976-77 requirements to the extent of 9144 Nos. on the lowest tenderer against GP-75 viz. M/s. Sumitomo, Japan.

#### 11. *Delivery Schedule.*

11.1. M/s. Sumitomo have stipulated that wheelsets will be ready for shipment within 2-1/2 months after receipt of the order at the rate of 1200 sets per month for the first two months and at 1500/1600 sets per month thereafter.

11.2. M/s. Creusot-Loire have stipulated delivery of 1200 wheelsets two months after receipt of the order and at the rate of 1500/1700 sets per month thereafter.

#### 12. *Fund position :*

12.1. Bulk of the shipments by the two suppliers would be made during 1975-76 and the spill over will go into 1976-77.

It is hoped that with the availability of additional funds it will be possible to find funds for making payments against these shipments.

13. *Summary :* The tender—GP-75—has been floated as a risk tender against Creusot-Loire after obtaining IDA's permission. The Tender Committee recommend placement of the order for 9144 Nos. wheelsets on the lowest tenderer viz. M/s. Sumitomo at unit FOB price of Yen 261,000 (Rs. 7,457.14). The value of the contract will be as under:—

(i) FOB value of 9144 Nos. wheelsets @ 261,000 per unit	Y	2,386,584,000
(ii) Add 15 per cent approxly, freight and insurance.	and	Y 357,987,600
Total CIF value	Y	2,744,571,600
	(Rs.)	784.16 lakhs.)

13.1. Before the opening date of the tender, M/s. Creusot Loire have requested that previous contract price (FF 2168) be increased by half of the difference between the contract price and the lowest unit FOB price to be received against GP-75, as a basis of an amicable settlement of the dispute. On the basis of the results of GP-75, enhanced rate would work out to FF 2855 i.e. 31.69 per cent price increase. Tender Committee after taking various facts of the case into consideration, are of the view that instead of seeking a legal

solution, the balance of advantage will be in our favour if we reach an amicable settlement and place order on Creusot-Loire on single tender basis. Besides Board and M.R.'s approval, this will also need concurrence of Ministry of Finance and IDA. The value of the contract will work out as under :—

(i) FOB value of 9144 Nos. wheelsets @ FF 2855 FF 26,106,120  
per unit.

(ii) Add 20 per cent approxly for freight insp. FF 5,221,224  
& insurance

Total CIF value FF 31,327,344

(or Rs. 659.52 lakhs)

13.2. In case the amicable settlement with Creusot-Loire, as proposed above, is accepted by the competent authority, then the purchase from Sumitomo can be deemed as a straight purchase to cover our 1976-77 requirements instead of at the risk and cost of Creusot-Loire.

14. The total CIF value of the two orders will work out to Rs. 1443.68 lakhs (Rs. 784.16 lakhs plus Rs. 659.52).

15.1. The validity of M/s. Sumitomo's and M/s. Creusot-Loire's offers expires on 20-9-75 and 7-8-75, respectively.

Sd/- V. C. Paranjape  
D.R.S  
28-6-75

Sd/- C. B. Lal,  
D.M.E.  
28-6-75

Sd/- N. D. Radhakrishnan  
J.D.F(S) II  
28-6-75.

The proposals, if approved, will require the clearance of Ministry of Finance and I.D.A.

The requirements indicated in para 10 are based on procurement of 11,660 wagons in 1975-76 and 14,500 wagons in 1976-77. IDA have, however, accepted the figure of 5,500 wagons only in 1975-76 and in their letter to Ministry of Finance listing the points for negotiation, they have indicated that the proposed credit is being processed for \$ 110 million ( inclusive of requirement of 20,000 wagons in the two years (5500+14500) and that this amount is the ceiling for assistance in the Rly. sector. They have apparently not accepted the higher foreign exchange requirement, inclusive of 24500 wagons in the two years, indicated to them, even though we had told them that additional funds in this regard were being sought for. This being so, the requirement of foreign exchange for procurement of wagons in 1975-76 in excess of 5500 Nos. may have to be obtained under Bilateral Free Resources. This aspect would have to be specifically

explained to MOF (DEA), who are separately being informed of this in our comments on points for negotiations indicated by DDA.

Sd|- J.D.F. (L&F)  
30-6-75.

In regard to the quantity required, on another file F.C. had suggested that, pending clarification of the position regarding availability of funds for 1975-76, we may assume that we shall procure 11,500 wagons in 1975-76 as we did in 1974-75, and requirements of wagons in 1976-77 could also be assumed at the same level but an option kept for ordering additional quantities to match the production of 14,500 wagons. The additional funds for 1975-76 asked for have not yet been allotted and I understand that the total allotment may be for only about 10,000 wagons. In the circumstances, we should for the present consider ordering only 14,865 of 20 ton wheel-sets with an option of 3424. If 18,288 wheelsets are ordered as recommended by the Tender Committee, we will end up with some quantity—equal to about 4 months consumption—in excess of the requirements, and this would have to be kept as buffer stock.

2. In view of the special features of this case, it may be advantageous to discuss it in all the aspects informally with I.D.A. before a final decision is made. As it happens, a mission is going to Washington this week to negotiate a further credit from I.D.A., and we may take the opportunity to hold the proposed informal discussion before taking a final decision.

Sd|- A.M.F.  
1-7-75.

Ordering 14,865 wheel-sets with an option of 3,424 as suggested by AMF, will require discussion with the lowest tenderer for his agreement to this mode of purchase. This may create complications as happened in the previous case and will result in serious delays. 3,424 wheel-sets is not such a large quantity and may be treated as a buffer stock.

2. There has been an acute shortage of wheel-sets resulting in stabling of wagons and, as such, it is most necessary to arrange for the supplies *urgently*. The Tender Committee recommendations, under the circumstances, may be approved for the full quantity of 18,288 wheel-sets and the case referred to IDA immediately so that CRB and FC may be able to pursue this case further during their visit to U.S.A.

Sd|- M.M.  
1-7-1975.

Wheel-sets have been in short supply and the full quantity as recommended by the Tender Committee should be purchased. The IDA's clearance can be obtained in the usual way and if the IDA need any clarification this can be given by Mission if really required.

Sd|- C.R.B.

1-7-1975.

M.R. desires that M.S.R. may also kindly comment at his earliest convenience.

Sd|-P.S. to M.R.

1-7-1975.

We have not been able to procure wheel-sets indigenously and this has pushed us to the foreign markets. We should go in for full quantity of 18,288 wheel-sets because of the fear that prices may go up and deliveries may get delayed.

Sd|- M.S.R.

2-7-75

I agree with M.S.R.

Sd/- K. P. Tripathi M.R.

2-7-75

Sd|- C.R.B.

2-7-75.

**APPENDIX II**  
**CONCLUSIONS/RECOMMENDATIONS**

Si. No.	Para No.	Ministry concerned	Recommendations
1	2	3	4
1	I.123	Railways	<p>The Committee note that for the requirements of wheel-sets for 1974, the Ministry of Railways had floated a tender on 19-9-1973 for supply of 11,430 wheel-sets with an option to increase the quantity by 30 per cent. In response to this tender the lowest offer received was from a French firm (Creusot Loire) who had offered to supply the wheel-sets at the rate of Rs. 4,022.26 F.O.B. per cent. Initially this offer of the French Firm was valid upto 29-1-1974. On 10-1-1974 the Tender Committee had recommended that contract for 11,430 wheel-sets with option to order additional 30 per cent may be placed on M/s. Creusot Loire, France. The relevant file containing the recommendations of the Tender Committee and the decisions of the Railway Board was sent on 11-1-1974 by the Board to the Minister of Railways, who was the competent authority for the approval of such proposals involving expenditure of more than a crore of rupees.</p>
2	I.124	Do.	<p>The Committee find that after the file had been submitted to the</p>



Minister of Railways on 14-1-1974 for necessary orders, the file shuttled between the Railway Board and the Minister for more than two months. In between the Minister had raised several queries and asked for special reviews in regard to the quantity of wheel-sets to be procured against the tender. At one stage even the French firm had been asked to reschedule their deliveries by making the same quicker and in larger instalments. It has been stated during evidence that meanwhile a letter dated 15-3-1974 from the Trade Representation of the Socialist Republic of Rumania in India addressed to the Director, Railway Stores, Railway Board had been received by the Minister directly. In this letter the Trade Representation had regretted that they had overlooked the advertisement of the tender and that they were very anxious to quote against this tender on the basis of payment in India rupees. They had also requested the Railway Board to wait for the few days to enable them to submit the quotation. However, since the tender could not be finalised within the period of validity, the French firm was asked to keep their offer open on as many as five occasions. Ultimately on 23-3-1974 the Minister of Railways directed that order should be placed on the French firm for 50 per cent quantity (5714) and for the remaining 50 per cent the possibility of getting these wheel-sets from Rumania should be explored.

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On the 26-3-1974, the Railway Board sent a cable order for 50 per cent of the tendered quantity (5715) Nos. retaining the option to order additional 30 per cent of the tendered quantity viz. 3429 wheel-

sets during the currency of the contract and also asking the firm to keep the offer for the balance 50 per cent open for four months, i.e., upto 25-7-1974 to which the firm had agreed. The formal contract was placed on the firm on 11-4-1974. On 27-3-1974 a copy of the tender had also been sent to the Trade Representation of the Socialist Republic of Rumania requesting them to submit their quotations early. Simultaneously the Indian Embassy at Bucharest was asked to contact the firm and request them to send the quotation. After a lapse of more than two months intimation was received on 5-6-1974 that there was no possibility of getting wheel-sets from Rumanian source. Action was then initiated and papers were resubmitted to the Minister on 18-6-1974 suggesting that orders for the optional quantity of 30 per cent (3429) and additional quantity of 50 per cent (5715) might be placed on the French firm before the target date, namely, 25-7-1974. This file was returned by the Minister only on 22-7-1974. While agreeing with the proposals put up by the Railway Board for placing further orders on the French firm, the Minister had in this note added the following rider:

“However, I came across a news-item in the Economic Times 2/3 days ago that there is general recession in the New York Market. In this background would it not be advisable to go in for fresh tender? I think we should.”

The file was received by the Board on 24-7-1974 i.e., just one day before the date till when the French firm had been asked to keep open their offer for supply of additional quantity of wheel-sets. On the same date the Board had decided that "in view of the fact that US based firms hardly responded to our global tenders for this type of items" order for 5715 numbers of wheel-sets be placed on the French firm. A telex acceptance was issued to the French firm on 24-7-1974, which the latter claimed to have received only on 26-7-1974, i.e., a day after the last date for receipt of orders for additional quantity was over. Though, according to the Railway Board the order had been placed within the stipulated time, the firm repudiated this claim. In short they decline to accept the order as the same had in their opinion been delayed. After protracted correspondence the Railway Board were obliged to cancel this order as well as the order for 30 per cent of the tendered quantity viz. 3429 Nos. placed in November, 1974, at the risk and cost of the firm. The Committee find that against the tender floated subsequently for the purchase of  $(5715+3429=9144)$  wheel-sets at the risk and cost of the French firm, the price quoted by the Japanese firm, whose tender was the lowest, was Rs. 7457 per wheel-set as compared to the price of Rs. 4022 per set quoted by the French firm in their original tender. However, before global tenders had been opened the French firm offered to make supplies provided the price stipulated in the previous contract was increased by half of the difference between the con-

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tract price and the lowest f.o.b. price to be received against the forthcoming tender, and the Railway Board as an expediency agreed to place the order again on the French firm. But this vascillation (from 5-6-1974 to 24-7-1974) resulted in an additional expenditure of Rs. 1.32 crores for the Railways. The Committee are distressed to find that the delay in placing the orders first after January 1974 on receipt of the Tender Committee's recommendations and later after 5th of June 1974 when it became clear that no supplies could possibly be had from Rumania has resulted in an avoidable expenditure of Rs. 1.32 crores.

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I.127

Railways

Initially, in the context of the inflationary trends in the international market following the oil crisis and the urgent requirements of the wagon builders the Minister had shown anxiety for ordering a larger number of wheelsets and also for expediting their supplies. As a matter of fact the French firm had once been asked at the instance of the Minister, to reschedule their deliveries so as to make them quicker and in larger instalments. Later on, however, the Minister appears to have had second thoughts and favoured the placement of an order on a Rumanian firm because he felt supplies could be forthcoming against rupee payments. After directing that order for only 50 per cent of the tendered quantity might be placed on the French firm, he had desired that the possibility of getting the balance supply from a Rumanian firm against rupee payment might be explored. In fact it would appear from the evidence of the Mem-

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ber Mechanical. Railway Board that special efforts were made to procure an offer from the Rumanian firm. It needs to be pointed out in this context that the Rumanian firm had never before participated in any offer for the supply of wheelsets to the Indian Railways and this was a well-known fact. When asked why did not the Railway Board bring this fact specifically to the notice of the Minister, the Chairman, Railway Board stated in evidence: "In fact, the Minister who was in the foreign trade knew about it. . . . .As officials, we cannot go over the Minister." Thus, since the Minister had so desired a belated request from the Rumanian firm for participation in the tender was taken into account and inquiries were made to ascertain if the Rumanian firm was in a position to make competitive offers for the wheelsets, even though it was known before hand that the Rumanian firm could not meet the Railways' requirements.

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I. 128

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Subsequently, after it was known that the Rumanian firm was no longer in the picture, the Railway Board put up the proposals that the order on the French firm for the balance requirement of the Railways for the wheelsets might be placed. The decision of the Minister was not available for more than a month despite two written reminders from the Railway Board. Thereafter he agreed to the proposals of the Railway Board but returned the file just 2 days before the target date. At that point of time, the Railway Board took a decision to place the order for the balance quantity on the French firm. Even then the peculiar predicament in which the Railway Board found itself could not be averted. Since the

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die had been cast and the order had been delayed, the Railway Board had to suffer an avoidable excess expenditure of Rs. 1.32 crores.

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Railways

From the foregoing paragraphs it is clear that the Minister had evinced unusual interest in the processing of this case. After 14th January, 1974, when the file was originally put up to him, the Minister had on 13th February, 1974, *i.e.*, after about a month, minuted that it might be considered whether it would not be advisable to go in for more quantity (the extended offer was due to expire on 16th February, 1974). On 15th February, 1974 when the Railway Board requested the Minister to accord his approval to the recommendations as the wheelsets were urgently required, the Minister ordered for a second look. The file was then resubmitted to the Minister on 16th February, 1974 recommending acceptance of Tender Committee's recommendations but on 5th March, 1974, *i.e.*, after about 20 days the Minister returned the file and asked for a review of the quantity to be ordered against the tender. On 13th March, 1974, the file was resubmitted to the Minister for approval and after 10 days the Minister directed that in view of the fact that Rumanians were showing interest in supplying wheelsets contract for 50 per cent quantity only might be placed on the French firm. This whole exercise took more than two months.

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I.130

Railways

Further the exploration of the Rumanian source for the supply of wheelsets was only an exercise in futility as it was well known that the Rumanian firm had never participated in any earlier tender enquiry for this item. However, since the Minister had so ordered, the formalities of supplying tender documents and awaiting for the response of the Rumanian firm were undertaken which inevitably led to further delay. And even though the intimation about the inability of the Rumanian firm to supply any wheelsets was received on 5th June, 1974 and the file had been put up to the Minister on 18th June, 1974, the Minister passed orders on this file only on 22nd July, 1974 and the file came down on 24th July, 1974, i.e. just one day before the date on which the extended offer was due to expire. The Committee do not find any justification for the delay at various stages. The peculiar manner in which the case has been handled at the Minister's level and at other levels renders their intentions quite unclear to say the least. Under the circumstances the Committee recommend that this whole case may be referred for investigation to a specially constituted judicial authority, which alone came adequately review the deeds of a Minister and others.

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I.131

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It is a little intriguing to note in this connection that in April 1975 when the Legal Adviser of the Railway Board had recommended that it would be advisable to arrive at a settlement with the firm, the Railway Board did not like this advice and decided to proceed with the risk purchase and face the difficulties in realisation of the extra expenditure from the French firm. Later on, however,

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after having floated the risk purchase tender and on receipt of a representation from the firm, the Railway Board considered it expedient to arrive at a settlement with the firm. The rationale for this *volte face* is incomprehensible keeping in view that in April 1975 the Railway Board had deliberately not accepted the advice of the Legal Adviser for the settlement with the firm. The explanation given for this change in the Railway Board's posture at a later stage is hardly convincing.

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Railways

A direct consequence of the belated placement of order on the French firm was (i) an emergency purchase order for 4,000 wheelsets on M/s Sumitomo Metal Industries, Japan on 11-4-1974 and (ii) procurement in advance of 9144 wheelsets from the same Japanese firm (M/s Sumitomo Metal Industries) against the requirements for the year 1976-77. The emergency purchase of course did not lead to any financial loss because the price contracted for each wheelset was lower than the French offer, but inasmuch as the emergency purchase was for an extra quantity of wheelsets without corresponding reduction in the order over French firm it resulted in higher inventory. So far as the advance procurement for the year 1976-77 is concerned, the Committee find that just at the point of time when a settlement was being reached with the French firm, the Railway Board had also on hand the Japanese offer for supply of 9144 wheelsets received in response to the risk tender floated earlier. What the Railway Board did was that in July 1975,

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while deciding to place orders for 9144 wheelsets on the French firm, they also decided to procure the same number of wheelsets namely, 9144 from Japan to meet the requirements of 1976-77 wagon building programme. The Committee find that as per the normal practice the order for their requirements of wheelsets for the year 1976-77 should have been processed by the Railway Board by September|October 1975. It appears that Railway Board felt obligated to the Japanese firm to place order on them.

11 I.133 -do-

It is to be noted that since it had been decided to purchase 9144 wheelsets from the French firm at a negotiated rate, there was no need for taking further action at that point of time on the risk purchase tender, under which the Japanese had quoted a rate which was 31 per cent higher than the rate negotiated with the French firm. There is no indication to suggest whether the French firm had then been asked to quote for the additional 9144 wheelsets for which the order was placed on the Japanese firm. The Japanese offer in the context of the then prevailing circumstances cannot, therefore, be considered entirely unexceptionable. Further, the manner in which the requirements of the wheelsets for 1976-77 were calculated before placing the order on the Japanese firm also appears to be un-understandable.

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12 I.134 -do-

It is seen that the requirements of the wheelsets for 1976-77 had been worked out on the basis of a projection of the anticipated

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production of wagons during 1976-77 at 14,500 four wheelers. The Committee find that the estimation of the wagon requirements for 1976-77 had neither been approved by the Planning Commission nor had it been finally adopted by the Railway Board themselves at that point of time. The only positive indication in regard to the total wagon requirements for 1976-77 was that during the Ministry of Railways' discussions with IDA Mission in March/April 1975 for IDA credit for 1975-76, the production level of 14,500 wagons during 1976-77 had been accepted. In these discussions the representatives of the Ministry of Finance and Planning Commission were also stated to be present. In the light of the procedure normally followed in such cases the wagon requirements for each year were being discussed by the Railway Board with the Planning Commission alongwith the Annual Plan in the months of November-December of the preceding year. Thus the estimations regarding the wagon production for the year 1976-77 would have come up for discussion with the Planning Commission only in November/December 1975

It is to be noted in this connection that in December 1974, when the wagon requirements for 1975-76 were placed before the Planning Commission, the Planning Commission had felt that the resources position was tight and hence the wagon requirements of the Railways for 1975-76 might be reduced from the level of 11,500 to 5,500 four wheelers. Since the Railway Board were not satisfied with this cut and insisted on larger allocation of funds so that the pro-

duction level of wagons in 1975-76 could at least be maintained at the level of 1974-75 production, they were asked by the Planning Commission to prepare a note for the Cabinet on the subject. This note was discussed among the concerned Ministers on 2-5-1975 when it was decided that the current rate of production of wagons i.e. about 10,000 wagons per year in terms of 4-wheels be continued in 1975-76. An additional budgetary allocation of Rs. 25 crores was made for the purpose. In this meeting no final view of the requirements for 1976-77 was, however, taken. Keeping in view the thinking of the Planning Commission at that time it was presumptuous on the part of Railway Board to take it for certain that their projected requirements of 14,500 four wheelers for 1976-77 would be acceptable to the Planning Commission.

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I.136

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In fact, as is evident from the records made available to the Committee, the thinking in the Railway Board itself was that even during 1976-77. the wagon production will be of the same level as achieved in the earlier years of 1974-75 and 1975-76, i.e. about 11,000 to 12,000 wagons. Therefore, for the assessment of the requirements of wheelsets during 1976-77, the figure of wagon production was unjustifiably assumed as 14,500 four wheelers. It would appear that the requirements of the wagons were deliberately highly inflated with a view to make sure that the maximum number of wheelsets required for these wagons were procured against the Japanese offer of 9144 wheelsets then pending before the Railway Board. It is interesting to recall that in regard to the quantity

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of wheelsets required, the then Additional Member Finance had noted as under on the relevant file:

"On another file Financial Commissioner had suggested that, pending clarification of the position regarding availability of funds for 1975-76, we may assume that we shall procure 11,500 wagons in 1975-76 as we did in 1974-75 and requirements of wagons in 1976-77 could also be assumed at the same level but an option kept for ordering additional quantities to match the production of 14,500 wagons."

On this noting of the Additional Member Finance, the then Member Mechanical of the Railway Board had minuted as under:

"Ordering 14,865 wheelsets with an option of 3424 as suggested by Additional Member Finance will require discussions with the lowest tenderer for his agreement to this mode of purchase. This may create complication as happened in the previous case and will result in serious delays."

This would clearly show that the Railway Board's assessment of their requirements for wagons and wheelsets was both unrealistic and unwarranted.

The Committee further find that in their estimations of the requirements of wheelsets for 1976-77, the Railway Board failed to

make a realistic assessment of the quantity of wheelsets that could be supplied by the Hindustan Steel Ltd. It has been stated that when the allocation of additional funds by the Planning Commission to maintain the level of production in 1975-76 at the level of 11,500 four wheeler wagons (i.e. 1974-75 level) became apparent requirements of wheelsets upto 31-3-1977 were reviewed in June/July 1975 and considering the likely supply of wheelsets during the two years of 1975-76 and 1976-77 to be received from the Hindustan Steel Ltd. as 10800 (450x24) numbers only, the requirements to be imported were assessed as 19400 wheelsets. However, the import order was placed for 18288 only. Thus in June/July 1975, while assessing the quantity of wheelsets expected to be supplied by the Hindustan Steel Ltd. the Railway Board do not appear to have made any conscious effort to ascertain from the Hindustan Steel Ltd. as to what extent they would be able to meet the Railways' demand either in the remaining months of 1975-76 or during 1976-77.

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16      I.138      -do-

The basis on which the Railway Board appear to have concluded that supplies of this item from the Hindustan Steel Ltd. would continue to be at the rate of 450 per month till the end of 1976-77 was a communication from the Steel Secretary received in March 1975. In this communication the Steel Secretary had indicated that for the period April 1975 to September 1975 the Hindustan Steel Ltd. could not commit itself to a supply exceeding 3600 sets out of which 2700 sets will be of 20 tonne wheelsets. In reply to a query from the Committee the Railway Board have stated that "it was not the practice to specifically enquire from Durgapur Steel Plant or the

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Ministry of Steel regarding the likely supplies by the Plant before finalising each and every import. These assessments were based on the performance of Durgapur Steel Plant who were supplying about 450 Nos. of 20.3 tonne wheelsets per month." In the same context the Railway Board have stated that "It might be submitted that Department of Steel did not give any indication that they were going to increase production in a significant manner."

17      1.139      Railways

It is thus to be seen that in arriving at the total figure of supplies to be expected from the Hindustan Steel Ltd. the Railway Board have placed complete reliance on the commitment made by the Steel Secretary in March 1975. The fact that this commitment was valid for a limited period extending only upto September 1975 was completely ignored. Besides, all other pointers towards a likely step up in the monthly production of wheelsets at Durgapur Steel Plant were overlooked. It is seen that regular meetings were being held by the Ministry of Railways with the representatives of the Hindustan Steel Ltd. to review the production of wheelsets at Durgapur. In one such meeting held on 9-9-1974 the Superintendent Wheels and Axles Plant, Durgapur had stated that production could be expected at the rate of 700 to 800 numbers per month although their commitment should be deemed at the level of 600 Nos. per month. The Railway Board had then given indication for accepting the increased supplies.

18 I.140 -Do-

According to the Department of Steel, Railways were fully aware of the improving trends of production of wheelsets at Durgapur Steel Plant which were made known to the representatives of the Railways in the regular monthly meetings held in Calcutta. Apart from this, a Resident Inspector of the Railway Board stationed at Durgapur used to get regular information from the Durgapur Steel Plant in the matter of production and despatches of various types of wheelsets. According to the Department of Steel irrespective of the commitments made for supply, the production of the wheelsets had gone up from June 1974 onwards. This is corroborated by the fact that except in the months of April and May 1975, when the despatches of wheelsets from the Durgapur Steel Plant were exceptionally low, the monthly despatches from June 1975 onward were well above the committed figure of 450 per month.

19 I.141 -Do-

As per the Railway Board's own calculations the average despatches during the period June 1974 to March 1975 and April 1975 to September 1975 were 553 and 528 numbers per month *vis-a-vis* the Committed quantity of 450 sets per month. Further, from a letter issued by the Department of Steel in the month of May 1975, it is seen that the Durgapur Steel Plant had complained that they did not have adequate orders for wheelsets from the Railways and had accordingly requested for more orders from the Railways. During evidence the Chairman, Railway Board had also conceded that in the relevant period, i.e. in the months of June, July and August 1975, the despatches from the Durgapur Steel Plant had

shown improvements even though he called them 'slight'. All these facts inexorably lead the Committee to conclude that the Railway Board overlooked the prospects of better production at Durgapur Steel Plant and without making any specific enquiries in regard to the likely supplies from the Plant during the next one and a half year, took the monthly figure of 450 sets for granted. It is significant to note that when the Committee pointed out that the care was taken to protect the interest of wagon builders by ordering more wagons but no such effort was made to consider the position of the wheelset industry, the Chairman, Railway Board admitted: "We did not see socio-economic condition."

This under-estimation of the capability of the Durgapur Steel Plant to produce more wheelsets coupled with the highly inflated assessment of the wagon production during the year 1976-77 led the Railways to make incorrect estimation of the import requirements of wheelsets for the year 1976-77. Just 2 months after the placement of orders in August 1975 on the Japanese firm for supply of 9144 wheelsets, the Railway Board found in November 1975 that the production prospects of the Durgapur Steel Plant had brightened. This strengthens the doubt that the placement of order on the Japanese firm was to placate them. The Durgapur Plant had then come forward with an offer to step up the supply of wheelsets from a mere 450 to one thousand sets per month. A review of the stock



and order position had then revealed that the Railway Board would be left with surplus wheelsets in 1976-77 to the extent of 6,335 in addition to the buffer stock of 3,176 assuming that the Durgapur Steel Plant would continue to supply at the previous rate of 450 wheelsets per month and 16,236 if the plant stepped up its supplies to one thousand sets as promised. Frantic efforts were then made to cancel the outstanding import orders as also to persuade the Durgapur Steel Plant to regulate their production of wheelsets in such a manner that their monthly despatches did not exceed the earlier committed figure of 450 wheelsets. The Committee were informed by the Department of Steel that Durgapur Wheel and Axle Plant "is originally designed and laid out for producing assembled wheelsets and not loose items". "The bulk of production is 20 tonnes' wheelsets. The imposition of restriction would have resulted in under-utilisation of the production capacity rendering manpower idle. The strategy of the Railway Board is indefensible."

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As has been pointed out in the Audit paragraph the ordering of 9144 wheelsets at a cost of Rs. 10.63 crores (including foreign exchange of Rs. 6.82 crores) in August 1975, based on an estimate of higher level of wagon production for 1976-77 than that for the previous year and in advance of the normal schedule of procurement resulted in excessive inventory of 6335 wheelsets over and above the buffer provision of 3176 sets. The Railway Board have explained that with the deferment of the delivery of 3116 numbers of the Japanese wheelsets beyond 1-4-1977 (1500 numbers of which had

since been cancelled) the excess inventory had been reduced to only 2972 sets. Nevertheless this is an admission of the fact that the requirements of wheelsets had been highly inflated for reasons best known to the Railway Board. This over-estimation of the needs has to be considered in the context of enormous difference between the price of imported wheelsets and those procured indigenously. The price differential in the indigenous supply from the Durgapur Steel Plant (Rs. 3580 per set in November 1975) and the imported supplies from Japan (Rs. 11620 per set tender price—order of July 1975) is so wide that on a single set less imported the Railways could have saved as much as Rs. 8040 in foreign exchange. The total infructuous expenditure involved in unnecessary imports would thus run into several crores of rupees. The loss suffered by the Durgapur Steel Plant by regulating their production of the wheelsets according to the wishes of the Railway Board, which has not been separately assessed would also be considerable.

The Committee cannot but point out that the Railway Board ordered import of 9144 wheelsets from the Japanese firm in August 1975 on the basis of an inflated assessment of the needs and requirements of the Railways without making a proper assessment of the production capability of the indigenous source of supply. It causes concern to the Committee that subsequently Durgapur Steel Plant were asked by the Ministry of Railways to regulate their production

so that monthly despatches did not exceed 450 wheelsets. It is regrettable that the Railway Board took no care to negotiate in August, 1975 with the Japanese firm for arranging a lesser quantity of wheelsets nor did they consider it desirable to limit the immediate imports to a more realistic level and to retain an option for ordering further supplies in case of need. The Committee recommend that the matter may be investigated by an independent high powered body to ascertain the true facts and to fix responsibility for the various lapses that have come to light.

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