

33

**INJUDICIOUS WAIVER OF
DEMURRAGE CHARGES**

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

**PUBLIC ACCOUNTS
COMMITTEE
(2006-2007)**

THIRTY-THIRD REPORT

FOURTEENTH LOK SABHA



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

THIRTY-THIRD REPORT

PUBLIC ACCOUNTS COMMITTEE
(2006-2007)

(FOURTEENTH LOK SABHA)

INJUDICIOUS WAIVER OF
DEMURRAGE CHARGES

MINISTRY OF RAILWAYS (RAILWAY BOARD)



Presented to Lok Sabha on

Laid in Rajya Sabha on.....

LOK SABHA SECRETARIAT
NEW DELHI

November, 2006/Kartika, 1928 (Saka)

P.A.C. No. 1818

Price: Rs. 67.00

© 2006 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Eleventh Edition) and Printed by the Manager, Government of India Press, Minto Road, New Delhi-110 002.

CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2006-2007).....	(iii)
INTRODUCTION	(v)
REPORT	1
APPENDIX I Paragraph 2.3.1 of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2004, (No. 8 of 2005), Union Government (Railways).	47
APPENDIX II Statement of Observations/Recommendations	49
PART II	
Minutes of the Sitzings of Public Accounts Committee (2005-06) held on 14th July and 1st September, 2005 and Public Accounts Committee (2006-2007) held on 31st October, 2006.	57

COMPOSITION OF PUBLIC ACCOUNTS COMMITTEE
(2006-2007)

Prof. Vijay Kumar Malhotra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Khagen Das
3. Shri P.S. Gadhavi
4. Shri R.L. Jalappa
5. Shri Raghunath Jha
6. Shri Bhartruhari Mahtab
7. Shri Brajesh Pathak
8. Prof. M. Ramadass
9. Shri M. Sreenivasulu Reddy
10. Shri Madan Lal Sharma
11. Shri Mohan Singh
12. Shri Rajiv Ranjan 'Lalan' Singh
13. Shri M.A. Kharabela Swain
14. Shri K.V. Thangkabalu
15. Shri Tarit Baran Topdar

Rajya Sabha

16. Shri Suresh Bhardwaj
17. Shri Prasanta Chatterjee
18. Shri R.K. Dhawan
19. Dr. K. Malaisamy
20. Shri V. Narayanasamy
21. Shri Janardhana Poojary
22. Shri Ravula Chandra Sekar Reddy

SECRETARIAT

- | | | | |
|----|-----------------------|---|-----------------------------|
| 1. | Shri S.K. Sharma | — | <i>Additional Secretary</i> |
| 2. | Shri A. Mukhopadhyay | — | <i>Joint Secretary</i> |
| 3. | Shri Ashok Sarin | — | <i>Director</i> |
| 4. | Shri M.K. Madhusudhan | — | <i>Under Secretary</i> |
| 5. | Shri N.K. Jha | — | <i>Committee Officer</i> |

INTRODUCTION

I, the Chairman, Public Accounts Committee as authorised by the Committee, do present this Thirty-Third Report relating to “Injudicious Waiver of Demurrage Charges” on Paragraph 2.3.1 of the Report of C&AG of India for the year ended 31 March 2004 (No. 8 of 2005), Union Government (Railways).

2. The Report of the C&AG of India for the year ended 31 March, 2004 (No. 8 of 2005), Union Government (Railways) was laid on the Table of the House on 6th May, 2005.

3. The Committee took the evidence of the representatives of the Ministry of Railways (Railways Board) on the subject initially at their sitting held on 14th July, 2005 and again on 1st September, 2005, during which the representatives of Gujarat State Electricity Corporation Limited were also present. The Committee considered and finalised this Report at their sitting held on 31 October, 2006. Minutes of the sittings form Part II of the Report.

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

5. The Committee would like to express their thanks to the Officers of the Ministry of Railways (Railway Board) and Gujrat State Electricity Corporation Limited for the cooperation extended by them in furnishing information and tendering evidence before the Committee.

7. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the comptroller and Auditor General of India.

NEW DELHI;
2 November, 2006
11 Kartika, 1928 (Saka)

PROF. VIJAY KUMAR MALHOTRA,
Chairman,
Public Accounts Committee.

REPORT

Introductory

As per Section 2(11) of Railway Act, 1989, demurrage means the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention. According to Railways the main objective of levying demurrage charges is to reduce wagon detentions and thereby improve wagon turn round. Demurrage charge is a marketing tool used as a leverage to persuade rail users to make investments for improving their handling systems so as to release railway wagons expeditiously. It is not a charge for any service rendered. Consideration of waiver of demurrage takes into account a host of factors including the extent to which such levies work as disincentives for the particular traffic for choosing rail as the preferred mode of transport. It is also possible for demurrage charges to even exceed the value of the commodity for low value commodities like salt, fodder etc. In such cases realization of demurrage accrued becomes unrealistic and very liberal waiver of demurrage may be necessary.

II. Audit Appraisal

2. This Report is based on paragraph 2.3.1 of Report of the C&AG of India for the year ended March 2004, Union Government (Railways) No. 8 of 2005 relating to "Injudicious Waiver of Demurrage Charges". (Appendix-I)

Audit have examined the accrual and waiver of demurrage charges in respect of five sidings of Gujarat Electricity Board (GEB) *i.e.* Ukai Songarh, Sevaliya, Dhuvran, Gandhinagar Capital and Sikka where GEB receives coal and residual fuel oil through Railway rakes. Audit scrutiny of records of all the five sidings of GEB in October 2003 revealed that:

- (i) Reasons were mentioned in a casual and routine manner against each of the detention cases. They were neither based on facts nor were they valid for allowing waiver. Verification of cases of waiver allowed on grounds of bunching and simultaneous placement of rakes revealed that delivery lines were infact available for placement in the sidings. Reasons furnished were thus, not genuine. The reasons such as round the clock working by the Railway and delay in clearance of consignments by Excise Department were not valid because round the clock working was introduced with the consent of parties and non-clearance of consignments by Excise Department is a matter to be resolved by GEB.
- (ii) Waiver of demurrage charges of around 55 per cent in 1991-92 abruptly increased to 71 per cent in 1992-93. The increasing trend continued in subsequent years and was 89 per cent in 2001-02. The increase coincided with the appointment of a middleman by GEB (April 1992) for pursuing demurrage cases with the Railway. Remuneration of the middleman was

directly linked with the amount of demurrage waived. The jump from 55 per cent to 89 per cent waiver in monetary terms amounted to Rs. 22.50 crore, which could be directly attributed to the involvement of middleman. The unintended beneficiary of the Railways excessive and unjustified use of discretionary powers of waiver was the middleman who received Rs. 5.15 crore from GEB for his services in effecting a waiver of about Rs. 61.96 crore during this period.

- (iii) Non-observance of directives issued by the Railway Board in March 1995 for not waiving the demurrage charges by more than 25 per cent resulted in extra waiver of Rs. 41.58 crore in respect of five sidings of GEB alone for the period from 1995-96 to 2003-04.

3. The Committee's examination of various dimensions of the subject as also various issues arising out of Audit Paragraph are dealt with in the succeeding paragraphs:

III. Circumstances leading to wavier of Demurrage Charges

4. According to Railways, the circumstances which lead to accrual of demurrage charges can be broadly grouped in three categories as under:

- (i) Reasons within the control of the consignor/consignee.
(ii) Reasons beyond the control of consignor/consignee like labour strike, transportation strike, general bandhs, agitations, riots, curfew, fire, explosion, heavy rains or other abnormal/unforseen circumstances.
(iii) Act of God, act of war and act of public enemies.

Normally demurrage is not waived in case falling in Category (i) unless there are justifiable reasons. Cases in Category (ii) or Category (iii) are considered on merits in each individual case.

IV. Demurrage accrued and waived in respect of GSECL

5. The details of demurrage accrued and waived in respect of five sidings of GEB from 1995-96 to 2003-04 are as follows:

Name of Power House	Year	Demurrage accrued	Demurrage waived	% Waiver
1	2	3	4	5
Ukai Songarh	1995-96	Data not available		
	1996-97			
	1997-98			
	1998-99	35301829	32391686	(92%)
	1999-00	13566062	12209455	(90%)
	2000-01	34108084	30697275	(90%)
	2001-02	22758645	20482780	(90%)
	2002-03	10566005	9509404	(90%)
	2003-04	13876160	12303757	(87%)

1	2	3	4	5
Wanakbori	1995-96	17807384	16026640	(90%)
	1996-97	16450070	14976966	(91%)
	1997-98	37879820	31033555	(82%)
	1998-99	47653984	42644462	(89%)
	1999-00	19282906	17354615	(90%)
	2000-01	20774453	18644854	(90%)
	2001-02	29784001	26508164	(89%)
	2002-03	27555553	24858850	(90%)
	2003-04	36215790	29014947	(80%)
Gandhinagar	1995-96	Data not available		
	1996-97	Data not available		
	1997-98	21890617	20185597	(92%)
	1998-99	5330815	4522736	(85%)
	1999-00	22725017	19844467	(88%)
	2000-01	15232161	13003237	(85%)
	2001-02	18190618	16353681	(90%)
	2002-03	11980962	10293598	(86%)
	2003-04	8549760	7097057	(83%)
Sikka	1995-96	Data not available		
	1996-97	Data not available		
	1997-98	Data not available		
	1998-99	4617194	3898622	(84%)
	1999-00	978904	679263	(69%)
	2000-01	331823	233190	(70%)
	2001-02	1666576	1297966	(78%)
	2002-03	1803420	1367004	(75%)
	2003-04	1270770	856057	(67%)
Dhuvaran	1995-96	239221	154012	(64%)
	1996-97	442283	364110	(82%)
	1997-98	2660069	2077232	(78%)
	1998-99	36558	24633	(67%)
	1999-00	54784	41859	(76%)
	2000-01	116568	89235	(76%)
	2001-02	28580	24293	(85%)
	2002-03	46800	37647	(80%)
	2003-04	12660	10227	(81%)

In respect of records pertaining to the years prior to 1997-98 the Ministry have stated that the same have been destroyed as the prescribed time for their retention was over. The prescribed time for retention of records is 4 years plus current year. Records from the year 1998-99 to the current year only are available with the railway.

V. Reasons considered by the Railways for waiver of demurrage charges in respect of GSECL.

6. In the background note furnished to the Committee, the Ministry of Railways have stated that the following reasons advanced by GSECL were considered by Railways for waiver of demurrage charges:—

- (i) As per Boards' orders (Annexure-I), the diversion of rakes should be prohibited or reduced drastically. But in the case of Sevalia unit alone, the diverted rakes are received at the rate of about 20 rakes per month.
- (ii) In terms of Board's letter dated 4.09.1996 (Annexure-II), no demurrage charges are leviable in respect of those rakes which have to wait for availability of tippler. However on Western Railway, this was not taken into account and the available free time for all rakes is being reckoned from the time of its arrival in the exchange yard. Operationally it is not possible to space the arrival of rakes evenly in the sidings since they come from far-flung collieries. Therefore, the powerhouse may not be held responsible for this bunching of arrivals of rakes.
- (iii) It is submitted that only availability of railway line for placement of rakes for unloading is not enough. Space should also be available for unloading and the tipplers should also be in the working condition.
- (iv) Railways get freight earnings of about Rs. 1100 crore from GEB annually and it is Western Railway's biggest customer after IOC. Since railways have been continuously losing their market share, customer satisfaction has been a criteria since last few years.

7. Explaining the reasons for the increasing trend in the waiver of demurrage charges from 55 per cent in 1991-92 to 89 per cent in the year 2001-02, the Chairman, Railway Board during evidence held on 1/9/2005 deposed as under:-

“We have seen the spread of demurrage waiver in other parts of the country in similarly situated locations, namely, power houses. We find that in a large number of power houses, our demurrage waiver has been of this order. I can quote examples. We have Kothabudh Thermal Power House where the demurrage waiver from 1999-2000 onwards has been between 86 per cent and 80 per cent year by year.”

8. In a post-evidence reply, the Ministry have stated that the increasing trend in waiver of demurrage charges in the case of Gujarat Electricity Board is primarily on

account of increased traffic volumes at their sidings which may be observed from the following tables:

Year	Number of BOX wagons received in power houses of Gujarat Electricity Board					Freight Earnings Crores
	Ukai	Sevaliya	Gandhi-nagar	Sikka	Total	
1990-91					-	377.45
1991-92					-	434.32
1992-93	1880	2706	1394	233	6213	551.17
1993-94	1853	2643	1400	320	6216	680.67
1994-95	1636	2809	960	523	5928	802.49
1995-96	1677	2368	1609	490	6144	948.60
1996-97	1924	2868	1481	614	6887	938.78
1997-98	2219	3486	1608	649	7962	1264.46
1998-99	1735	3234	1872	304	7145	1232.78
1999-00	1886	4154	1686	356	8082	1470.78
2000-01	2000	4067	1521	397	7985	1367.32
2001-02	1957	3869	1785	424	8035	1389.69
2002-03	2065	4040	1931	396	8432	1472.70
2003-04	1706	4043	1767	362	7878	1414.06

9. The Ministry stated that the cumulative waiver of demurrage charge between 1998-99 and 2003-04 has been only 0.43% of the total freight earnings in this period.

10. When asked whether the reasons for waiver of demurrage charges, whenever the waiver exceeds 50 per cent of the power conferred on an officer, are being recorded in writing, the Ministry in a written reply stated as follows:—

“As per extant policy instructions dated 11.10.2004, in the case of large sidings (e.g. power houses), broad reasons are being recorded in support of periodical waiver after analyzing the broad causes of detentions.”

11. The Committee desired to know about the mechanism in vogue to check the process of waiver of demurrage charges at various levels. In response, the Ministry in a written reply stated as under:

“It is the responsibility of the individual officer to ensure that waiver allowed is as per the permissible rules. Moreover, like in any other case, audit and vigilance checks are exercised to confirm whether the extant rules are being followed or not.”

11(a). It is seen from the Audit Para that in March 1995, the Railway Board stipulated that normally more than 25 per cent of the accrued amount should not be waived and reasons for waiver above ten per cent should be recorded. Non-observance of this directives issued by the Railway Board resulted in extra waiver of Rs. 41.58 crore in respect of five sidings of GEB alone for the period 4from 1995-96 to 2003-04.

12. When the Committee enquired about the reasons for non-compliance of the Railway Board's directive issued in March 1995 regarding waiver of demurrage charges, which stipulated that normally more than 25 per cent of accrued amount should not be waived and reasons for waiver above 10 per cent should be recorded, the Ministry in their written reply stated as under:—

“The letter issued by Railway Board under signature of Advisor (Traffic) in March 1995 was not a rule. Commercial matters which include policy for waiver of demurrage are not in the jurisdiction of Advisor (Traffic) and he is not authorized to issue any guideline on such matters. The clarification issued in September 1995 by Advisor (Commercial) enunciated the correct principles for waiver of demurrage charges. Nonetheless, it has been maintained in all the circulars/letters, including the letter of March 1995 that policy instructions issued on 23.4.86 will have to be kept in view while deciding individual cases of waiver.

In terms of Para 1102 of Indian Railway Code for Traffic (Commercial), General Managers of the Zonal Railways have full powers to waive demurrage charges irrespective of the amount involved. It has again been reiterated in the revised instructions dated 11.10.2004. However, it has been further laid down that the powers for waiver of demurrage charges should be exercised judiciously keeping in view the merits of each case. Whenever the waiver exceeds 60% (revised to 50% in October 2004) of the powers conferred on an officer, reasons for such waiver should be recorded in writing.

13. Thus, according to the Ministry, only the policy instructions as contained in Railway Boards letter dated 23.04.1986 were applicable for waiver of demurrage charges. In case of large sidings such as M/s Gujarat Electricity Board waiver of demurrage was to be governed in terms of Para 5 of the said letter which reads as follows:—

“In the case of large sidings, like those of power houses, where demurrage is not waived on wagon to wagon basis or day to day basis where the decisions are taken periodically after going through the statements of wagons detained and broad causes for each detentions, it is not necessary to record speaking orders in respect of each and every consignment or wagon, and it would be sufficient if broad reasons are given in support of such periodical waivers.”

VI. Rules/guidelines relating to waiver of demurrage charges

14. According to Railways, the waiver of demurrage charges are governed by Railway Board's letter dated 23.4.86. Relevant extracts of the letter are as follows:

“Although no hard and fast rules or rigid guidelines can be laid down for exercising the discretion in the waiver of demurrage charges, the following aspects and circumstances should be taken into account by the competent authority while waiving of these charges:—

- (a) the need to sustain and attract traffic to the railways and to assist in the marketing efforts.

- (b) the nature and the value of the goods in relation to the freight and demurrage dues.
- (c) the amount likely to be recovered, if the goods are not taken delivery of and as a consequence of which the same has to be disposed of by public auction as per rules;
- (d) the extent of damage or deterioration the goods might have suffered;
- (e) the extent of delay in transit;
- (f) the cause for delay in unloading or taking delivery of goods and extenuating circumstances, if any;
- (g) the local condition at a particular station;
- (h) whether the circumstances under which the demurrage charges accrued were really beyond the control of the consignor or the consignee;
- (i) the size of the goods shed and its vulnerability for congestion if the goods are not removed, leading to operating restrictions on this ground;
- (j) railway's inability to grant delivery on indemnity note for want of wagon labels or invoice not received at the destination station;
- (k) capacity of a siding for dealing with train-loads within the prescribed free time;
- (l) bunching of arrival and placement of trains/wagons as distinct from placement at regular intervals to deal with normal quantum of traffic;
- (m) strikes of labour, road vehicles, etc./general bandhs, agitations, riots, curfews or similar other abnormal situations over which consignor/consignee has no control;
- (n) time taken in granting open/assessment delivery.

The above aspects are not exhaustive and individual cases may require other factors such as operational or commercial considerations, and railway customer relations to be taken into account while taking a decision about waiver of these charges and the extent thereof.”

15. Explaining the reasons and the circumstances under which demurrage charges are liberally waived, the Ministry of Railways in a written notes submitted that field situations vary so widely that it is not practical to frame very inflexible dispensation in respect of waiver of demurrage charges. A few illustrative examples are given below:—

- “a. Rake of a low value commodity like salt may get detained abnormally entirely due to failure of the consignee to unload it in time. In such cases quite often the demurrage charge exceeds the cost of the commodity. Customers tend to abandon such goods if the Railway attempts to recover full demurrage charges. Railways can exercise the power to auction consignments in order to recover the due charges. However, the cost of the process of disposal of goods may

very well exceed the revenue eventually realized for such a low value commodity. In fact, the Railways may lose substantial part of freight in the process. In such cases, it is more prudent to waive demurrage comparatively more liberally and recover a modest amount.

- b. There are also cases of consignees having inefficient handling systems leading to delayed release of wagons. While an early up gradation of such systems will help railway get its wagons released faster, the company's finances may afford such investments only over a longer time period. In such situations strict imposition of demurrage charges is likely to drive the customer away from railway to competing modes of transport willing to offer a more lenient free time regime.
- c. It is not practical for railway to supply rakes at evenly spaced time intervals. Inevitably it leads to bunched receipt of rakes. One may look at an example of bunched receipt of three rakes at a time. One of these rakes will be deemed to have been placed on arrival while the second rake will be deemed to be placed after expiry of the free time for the first rake and, finally, free time for the third rake will start on expiry of the free time for the second rake irrespective of the release times of each of these rakes. If release of the first rake is delayed, this delay will cascade and will lead to imposition of demurrage charges on the other two rakes too even if they are released within the prescribed free time.
- d. In some cases, enhanced free times for handling of wagons may constitute a key component of the transportation package offered by railway to capture business from a customer. This can be done only by using liberal demurrage waiver as marketing tool.

As these examples illustrate, in each case a view about the demurrage to be recovered and waived will have to be taken. Waiver of demurrage is essentially a business decision in which the impact of full levy on the consignee's business and liberal waiver on wagon detentions will have to be carefully balanced.

Purely from the railway's perspective, prescribed free times should correspond to theoretically most efficient handling systems. However, there is always a cost associated with installation of such systems. From the customer's point of view, this cost should be as low as possible. These conflicting objectives have to be resolved at some mutually acceptable point. Also, handling different type of commodities by different type of systems (manual, mechanized, using payloaders, different terminal facilities and layout etc.) takes widely varying times whereas railway prescribes uniform free times with very few exceptions.

In general, railway frames a very tight free time regime so that customers can be motivated to invest for adopting more efficient handling systems. Inability of the customers to conform to these standards is handled through demurrage waiver giving them an opportunity to improve their performance over time. That his philosophy has been successful in its objectives is borne out by the continuously improving wagon turn round performance of the railway.

From the foregoing it would be clear that waiver of demurrage charge is discretionary and it has to necessarily remain so for railways to continually strive to improve handling efficiency at terminals as also to operate in a competitive environment.”

VII. Delegation of powers to railway officials for waiver of demurrage charges

16. According to Audit as per guidelines issued by Railway Board in April 1986 and October 2004, officers have been empowered to waive demurrage charges as under:—

Officer's rank	Amount per wagons up to to which demurrage can be waived		Maximum amount that can accrue in a day		As a result, percentage to which amount accrued in a day can be waived at each level	
	As per orders of April 1986	As per orders of October 2004	Between 1986 and 30-7-02	After 30-7-02	Between 1986 and 30-7-02	After 30-7-02
GMs	Full Powers	Full Powers	Rs.504 to Rs. 576	Rs.360 to 720	100	100
CCM/COM & PHOD level officers	100000	100000	Rs.504 to Rs. 576	Rs.360 to 720	100	100
CCM/COM/CMM/CCO/DRM	25000	25000	Rs.504 to Rs. 576	Rs.360 to 720	100	100
ADRM	20000		Rs.504 to Rs. 576	Rs.360 to 720	100	100
JA Grade Officers	6000	6000	Rs.504 to Rs. 576	Rs.360 to 720	100	100
Sr.Scale Officers	3000	600	Rs.504 to Rs. 576	Rs.360 to 720	100	83 to 100
Jr.Scale Officers	750	300	Rs.504 to Rs. 576	Rs.360 to 720	100	42 to 83

Audit has contended that according to the delegation referred to above, no finance concurrence is required for waiver of demurrage if the amount involved is up to Rs.25000. It is clear from the above table that financial concurrence will be required only if a wagon is under demurrage for more than 20 days at a stretch. Officer of the rank of JA Grade and above can waive almost 100% demurrage even if the wagon is detained for upto 5 days irrespective of the fact that during the period of five days, the loss of earning capacity of a wagon will be approximately Rs. 11000/-. Thus while the Railway Board in 1995 had issued instructions to restrict the waiver to 25 percent, the delegations were of such a nature that even upto 100 percent waivers could be granted at lower levels, without obtaining finance concurrence.

17. When asked how the above delegation of powers is considered justified when it is violative of Railway Board Circular No.39 of 2004 dated 11.10.2004 and their previous letter dated 23.4.1986, the Ministry in a written note stated their position as under:—

“As shown in the Table above, power of the waiver has been laid on per wagon per hour basis and not daily basis. Further, demurrage is levied on all the wagons comprising a rake even if only one wagon of the rake is detained beyond the prescribed free time for any reason. Hence, the analysis and the table given above do not clearly bring out the scope of powers at various levels. The table given below clarifies the powers of the officers in terms of detention hours that can be waived.

Power in terms of detention hours upto which demurrage can be waived

Officer	Power in Rupees		Power in terms of detention hours per wagon up to which demurrage can be waived			
	1986	2004	1986	1992	2002	2005
Asstt. Officers	750	300	21	12	12	3
Sr. Scale Officers	3000	600	65	42	41	6
JA grade officers	6000	6000	117	69	68	42
DRM	25000	25000	445	233	226	107

It may be noted that junior scale officers earlier had power to waive detention up to 12 hours. This has since been further curtailed to 3 hours. Similarly, the powers of other officers have also been rationalized. The cases are processed at appropriate level for waiver, and the competent authority is empowered to waive off 100% of the amount, if justified. It is to mention that the powers vested on the railway officers are not violative of policy guidelines issued by Railway Board.”

VIII. Basis for determining the demurrage charges

18. When asked about the basis/criteria for determining the rates of demurrage charges and whether the same are commensurate with the earning capacity of the wagon, the Ministry of Railways in a written reply have stated as under:—

“Demurrage rates have no relationship with the earning capacity of a wagon. These charges are fixed on an *ad-hoc* basis as a disincentive for detaining wagons and are updated periodically. Waiver of demurrage is done on a rational and realistic basis in the business interest of railways to market enhanced business volumes and generate higher freight earning. Policy objective of demurrage rates and its waiver is to optimize total logistics cost of transportation, of which railway freight is only a part, for the end user. It may be appreciated in this backdrop that railway wagons are not being under utilized.”

19. As regards the loss of earning capacity of the wagons due to their non-release within the permissible free time, the Ministry of Railways in their post evidence reply stated as under:—

“Demurrage charges have no relationship with the earning capacity of wagons. Railways do not assess such notional loss of earning capacity of wagons due to these detentions.”

20. The Committee desired to know as to how the Railways reconcile with the situation of acute shortage of wagons requiring their timely release *vis-a-vis* their liberal policy of waiving the demurrage charges accruing on account of detention of wagons. In response, the Ministry of Railways in a written reply stated as under:—

“.....waiver of demurrage is essentially a business decision in which the impact of levy of full demurrage on the consignee’s business and the consequent fall out on his continuing to stick on rail as the preferred mode of transport *vis-à-vis* the impact of liberal waiver of wagon detentions and consequent effect on wagon turn round have to be carefully balanced. Purely from railway’s perspective prescribed free times should correspond to theoretically most efficient handling systems. However, there is always a cost associated with installation of such systems. From the customer’s point of view, this cost should be as low as possible. These conflicting objectives have to be resolved at some mutually acceptable point. Also, handling different type of commodities by different type of systems (manual, mechanized, using pay loaders, different terminal facilities, layout etc.) takes widely varying times whereas railway prescribes uniform free times with very few exceptions. In general, railway frames a very tight free time regime so that customers can be motivated to invest for adopting more efficient handling systems. Inability of the customers to perform to these standards is handled through demurrage waiver giving them an opportunity to improve their performance over time. That this philosophy has been successful in its objectives is borne out by the continuously improving wagon turn round performance of the railway. From the foregoing it would be clear that waiver of demurrage charge is discretionary and it has to necessarily remain so for railways to continually strive to improve handling efficiency at terminals as also to operate in a competitive environment.”

IX. Permissible free time for release of Railway Wagons/ Rakes by the Consignee

21. The Ministry of Railways (Railways Board) permits a free time of 10 hrs. for release of full rake of 58 Box ‘N’ wagons and demurrage is charged if this time is exceeded.

22. When asked to specify the works/services which are to be undertaken during specified “Free time” as per Railway rules and such services/works which are not taken into account in the free time, the Ministry in their written reply stated as under:—

- (a) Works/services to be undertaken during free time-loading/unloading of wagons.

- (b) The time taken for all other activities (except loading/unloading of wagons) is not counted in the notified free time.

X. Operational Difficulties faced by Gujarat State Electricity Corporation Limited (formerly Gujarat Electricity Board)

23. In their letters addressed to Divisional Railway Manager, Baroda on 22nd Sept., 1998 and 29 July, 2002, the Gujarat State Electricity Corporation Limited (GSECL) had brought out in detail the reasons for detention of wagons and the various constraints faced by GSECL in loading/unloading of wagons. The same are given in detail in Annexures III and IV respectively.

24. The Operational difficulties faced by GSECL in wagon unloading are stated to be as under:—

(i) *Permissible free Time for unloading of coal wagons*

Railway is levying demurrage charges, beyond permissible free time for wagon unloading & loading. Permissible free time should have been decided by Railway based on some logical consideration. Permissible free time which was earlier 12 hrs. plus 1 hr. for release of brake by Railway staff was reduced by railway to 10hrs. only (additional 1hr. for brake release was curtailed by Railway) up to 15.3.2005 for wagon unloading at TPS in Box-N wagons rakes. Permissible free time is further reduced drastically & unilaterally to 5hrs. with effect from 15.3.2005 that is increased marginally to 6hrs due to strong protest from utilities with effect from 15.7.2005. As per the best practice, before revising norms of permissible free time, Idle Time & Motion study should be adopted scientifically in like siding considering time taken for essential activities like release of vacuum brake, pulling of the rake to and fro from exchange yard to handling lines, shunting and release of rake to the yard and any other miscellaneous shunting work and based on it, norms should be revised or fixed for levying demurrage charges.

(ii) *Simultaneous placement of Coal rakes*

Factually, demurrage occurs on the coal rake predominantly due to simultaneous placement of coal rake by Railway (*i.e.* placement of coal rake before completion of free time of immediate preceding coal rake). Due to rakes placed in overlapping, free hour time is almost killed and this attributes to demurrage charges. Hence, until earlier received rakes are released, next rakes cannot be taken for unloading. In view of this, Railway should consider placement time of next rake only after expiry of permissible free time of earlier placed rake. Railway is extending such facility of deemed placement time as above to ONGC, Gujarat Refinery etc. based on unloading capacity of each plant. If aforesaid facility was extended to power utilities, demurrage might have reduced substantially.

(iii) *Coal rake diversion by Railway due to their own operational problem*

Coal rakes are diverted by Railway largely without the consent of utilities and rarely on request of utilities. Undue diversions by Railway worsen the

situation at TPS end due to unplanned receipt of coal rake and attracts heavy demurrage charges.

(iv) *Non removal of empty rakes by Railway in timely manner*

Empty rakes are not removed by Railway in time. Non-removal of the same by Railway may be due to non-availability of Railway Loco Engine or other reasons. The situation results in blocking of empty lines which attracts undue shunting during release of subsequent coal rakes and this attracts demurrage charges. The said situation also hampers wagon-unloading activity of subsequent rakes.

(v) *Unilateral increase of carrying capacity of wagons*

Railway is revising norms for permissible carrying capacity from CC+2 to CC+4 of coal wagon on paper without any physical increase of wagon carrying capacity that is strongly protested by coal companies. Coal companies have also shown their technical inability to load the coal from few sidings upto the revised permissible carrying capacity of CC+4 and have been denied to pay under loading charges as it is a unilaterally decided by Railway.

25. The Committee liked to know the views/comments of the Railways in respect of the various problems/constraints faced by GSECL as brought out by them *vide* letters dated 6.5.1992, 23.11.95 and in 1997 and the steps taken by them to remedy the same. In a written note, Ministry of Railways stated as under:—

“The points raised by Gujarat Electricity Board are justifiable reasons for grant of additional free time for unloading of wagons. However, Railways are not in favour of grant of additional free time on this account for obvious reasons as it will lead to increased detention of wagons. However, these grounds have been accepted by railway officers while considering waiver of demurrage charges. Railways continue to impress upon the power houses to improve their handling capacity in accordance with the latest technology. At the same time, railways do not want to penalize the power houses by recovery of demurrage charges accrued in full. The relief to the power houses who are valued customers is given by waiver of demurrage. If power houses are able to install the requisite infrastructural facilities, the problems faced by them would automatically be resolved. As regards Time & Motion study of individual sidings, this is a long time consuming exercise. As a matter of right, the siding owners continue to dispute the recommendations as a result of Time & Motion study. The siding owners always endeavour to obtain more free time for unloading which are against the railways interests. Therefore, Time & Motion studies are not finalized easily. However, in order to provide relief to the rail users, Ministry of Railways have decided that a maximum of 2 hours of additional free time may be granted *w.e.f.* 15.7.2005 for shunting, placement/removal of wagons etc.”

26. When asked whether the causes for accrual of frequent demurrage charges from particular goods-shed or a siding of a consignee/consignor, with special reference

to GSECL have ever been analyzed by the Railways, the Ministry in a written reply stated that the broad reasons for accrual and waiver of demurrage particularly in GEB were as under:—

- “1. Receipt of diverted rakes.
2. Placement of rakes in bunched or overlapped manner.
3. Inferior quality of coal, which could not be handled through tippers.
4. Other reasons like working round the clock, heavy losses, receipt of muddy and over-size coal, delay due to wagon defects such as brake binding etc.

The above reasons are universal in nature in respect of all power houses including Gujarat Electricity Board. These problems can be remedied only by making suitable investments for upgradation of material handling systems by the State Electricity Boards. Gujarat Electricity Board (GEB) *vide* their letters dated 17/22 September, 1998 addressed to Railway Board had highlighted the various problems associated with loading/unloading of coal, insufficient free time available and other procedural issues such as calculation of free time etc.”

27. The Committee enquired as to whether the time taken in releasing of vacuum brake and other shunting services is also included in “free time” granted by the Railway Board and if so, the reasons therefor. In response, the Ministry of Railways, in a written note stated as under:—

“Normally as and when the wagons are handed over to the power house at the place of interchange, the free time is started as is done in the case of all other siding owners. This was adopted on all sidings and not only GEB. Normally no shunting is involved after the wagons are placed at interchange point except removing of wagons and putting them on tippler lines. The need for release of vacuum brake arises only in case unloading is done on a tippler. This activity and other activities such as detaching of a wagon are a part of unloading operations. Hence the time taken for activities is a part of free time for unloading operation.”

28. When asked whether Railway Board has taken into account the infrastructural capacity of the sidings while granting free-time to their users, the Ministry in a written reply stated as under:—

“The free time for loading and unloading for different types of wagons are notified uniformly for all the rail users including sidings. Railway Board issues only the broad policy guidelines. The infrastructural facilities are known at local level to the Railways only. Therefore, Railway Officers are given powers to decide the issues locally within the broad policy laid down by Railway Board. However, advancement in loading/unloading techniques is kept in view while revising the free time rules from time to time.”

29. On being asked whether Railways undertake time and motion studies of all the sites before raising the bill for the demurrage charges, the Ministry in a written reply stated as follows:—

“With effect from 15.7.2005 a ceiling of 2 hours of additional free time has been prescribed for all sidings. However, if additional free time had been fixed less than 2 hours as per Time & Motion study, the same will continue. In the light of these, the concept of Time & Motion study has been dispensed with. Prior to this, the Railways were required to undertake Time & Motion of each siding. Once the report of the study was accepted by the siding owner, demurrage was levied for wagons detained beyond time fixed by the study. Siding owner always raised disputes over the report of the study and finalization of the report used to be a time consuming process. Therefore, in order to streamline the system, a maximum of 2 hours of additional free time has been fixed w.e.f. 15.7.2005.”

30. The Committee desired to know whether providing extra time by Railways for the services required for loading and unloading will resolve most of the issues pertaining to the demurrage charges. They also liked to know whether the new timings stipulated *vide* Railways circular dated 15.2.2005 for loading/unloading of wagons was based on Time and Motion studies. In response, the Ministry of Railways in a written note stated as under:—

“It is in Railways’ interest that rail users should make investment for improving their handling systems so as to release Railways’ wagons expeditiously. No doubt increase in free time for loading/unloading will resolve most of the issues pertaining to demurrage. However, it will not serve the Railways’ interest. If liberal free time is allowed, the rail users will avoid investment for improving their handling systems. The earlier rules regarding free time for loading/unloading were issued way back in the early 90s. Since then, a lot of advancement has occurred in infrastructural facilities of loading/unloading. Keeping in view such advancement, free time rules were made stricter in March, 2005. Representations from various sectors of Trade & Industry have been received against reduction of free time and relief has been provided to the rail users by relaxing the free time w.e.f. 15.7.2005. Handling of different types of commodities by different types of systems (manual, mechanized use of pay loaders) in widely varying terminal facilities and yard layouts require different scales of free times to be laid for each unique situation. It is not practical to carry out Time and Motion studies for each category before prescribing rules for free times. Railways have to frame a very tight free time regime so that customers can be motivated to invest for adopting more efficient handling system.”

XI. Steps taken by GEB to upgrade their Handling Capacity

31. When the Committee asked the GSECL about the steps taken by them to upgrade their handling capacity in their sidings, the GSECL in their post evidence reply stated as under:—

“GSECL has made available required infrastructure at all its Thermal Plant from the commissioning of the coal handling plant for unloading of coal wagons. However, GSECL has upgraded and modified their infrastructure

facility time to time by making huge investment for augmentation of plant unloading capacity and to overcome the bottleneck, if any, by deploying latest available technology. Few of major upgradations and modifications are listed hereunder:—

Ukai TPS:

- Installations of stacker reclaimer machine.
- Installation of feeder breaker in wagon tippler system.
- Track renewal work at Ukai TPS as suggested by Railway.
- Electrifications of Railway line as recommended by Railway.
- Increase in size of wagon tippler hopper grill for faster unloading of coal wagons.
- Modification and augmentation of conveyor belt capacity to have a bunker feeding facility from both the ends of bunker belt simultaneously.

Wanakbori TPS:

- Commissioning of 2nd Stacker Machine in Coal handling Plant along with all other related conveyor system.
- Modification in conveyor chute lining and surge hopper system for dual side feeding system.
- Bunker feeding facility from both the ends of Bunker belt simultaneously.
- Commissioning of one additional Wagon tippler No. 5 from July, 2004 and major alterations in Railway yard.
- Proposed shifting of locations of weigh in motion system as suggested by Railway.

Gandhinagar TPS:

- Additional Coal Handling Plant Stage-II commissioned in the year 1990.

32. On the other hand, the Ministry of Railways in their detailed background note stated as under :—

“GEB’s precarious financial condition is also responsible for not augmenting the infrastructure in the form of additional tippers, holding lines despite increase in the generation capacity. In Sevalia, which is their biggest power house, despite addition of one unit of 210 MW in 1999 resulting in increase of coal rakes from 5 to 6 rakes per day, an additional tippler was provided only in 2004 and 2 additional holding lines were provided only in 2005.”

XII. Involvement of middleman/consultant for waiver of demurrage charges

33. Audit had pointed out that the waiver of demurrage charges which was around 55 per cent in 1991-92 had abruptly increased to 71 per cent in 1992-93 and the

increasing trend continued even in subsequent years which was around 89 per cent in 2001-02. The increase in waiver coincided with the appointment of a middleman by Gujarat Electricity Board (GEB) in April 1992 for pursuing demurrage cases with the Railway. GEB had paid Rs. 5.15 crore to the middleman for obtaining additional waiver.

34. Audit have stated that when the matter was brought to the notice of Railway Administration in April 2004 they have stated (September 2004) that the engagement of middleman was an internal issue of GEB and Railway Administration was not aware and cannot authenticate the details regarding appointment of middleman and payment of commission thereto.

35. The Committee asked the Ministry of Railways as to how they came to know about the appointment of a middleman by the GEB for getting waiver of demurrage charges. In response, the Ministry of Railways stated as under:—

“The matter of appointment of middleman by Gujarat Electricity Board came to the knowledge of Railway Board (MT) in April 2001 informally. This was brought to the notice of the then Minister of Railways, who decided that the matter should be taken up with the Government of Gujarat.”

36. Subsequently, the Ministry of Railways wrote to Government of Gujarat in May 2001, seeking clarifications on the engagement of middleman to get waiver of demurrage. The letter reads as under:—

“During the course of examination of the representation received from Gujarat Electricity Board seeking relief in the amount of freight payable on Coal rakes sent to their plants, it has been observed that GEB has employed a middleman/contractor for getting waiver of demurrage charges on commission basis. It is requested that the arrangement of employing a middleman/contractor who seeks waiver of demurrage charges should be reviewed as it is an unhealthy arrangement and may promote unethical practices.”

37. Responding to the above letter of the Ministry of Railways, the Gujarat Electricity Board (GEB) *vide* their letter dated 30th August, 2001 clarified their position as under:—

“We would like to clarify that GEB has not employed a middleman or contractor to get waiver of demurrage charges GEB is manned by experienced personnel. Problems relating to the Railways are dealt by them and not by the middleman/contractors including holding meetings and correspondence with Railways. GEB has not delegated any authority to any middleman or any body else either to correspond or to hold meetings with the Railways. While dealing with the Railways in the matter of tariff/correct charging/waiver of free time, the GEB has to take measures that the latest instructions issued by the Railways are available to them. In certain cases, the relevant data need also be collected in order to substantiate the case of GEB. Since it is very difficult for GEB to collect all the relevant instructions on their own. GEB has no option but to utilize the service of some external consultants to assist/ advice in the matters related to Railways. Thus, you would kindly appreciate

that GEB has not employed any middleman/contractor for waiver of demurrage charges. ...”

38. In their post evidence reply the Ministry have stated as under:—

“Ministry of Railways took up the matter with the Govt. of Gujarat in May 2001. However, Gujarat Electricity Board informed the Ministry of Railways that they had not appointed any such middleman. They had obtained the services of a consultant only for advising them on Railway matters. The Ministry of Railways did not find anything wrong in this statement and took the response of GEB on face value. The fact that GEB had also terminated the services of middleman in December 2002 did not come to the notice of Railway Board at that time. The engagement of the middleman by Gujarat Electricity Board was further investigated by the Anti-corruption Bureau of Gujarat. Full details came to the notice of the Ministry of Railways only when Audit furnished the documents from the records of Gujarat Electricity Board at the Draft Audit Para stage in April, 2004. It was only at this stage that Railway learnt that remuneration of the middlemen linked in percentage terms to the amount realized from the Railways. The matter was also investigated by the Vigilance Directorate of the Ministry of Railways.”

39. The Ministry of Railways have further stated as under:—

“..... Western Railway did not have a direct dealing with the consultant appointed by Gujarat Electricity Board for matters related with Railway. Gujarat Electricity Board addressed all their representation of Western Railway only. Consultant of GEB did not address any representation to the railway. All meetings on matters related with GEB were held between officials of Western Railway and GEB. Benefit of amount waived went directly to GEB.”

40. The Committee came to know that on 18th July, 2002, the O.S.D. Western Railway, Ahmedabad requested the Anti-corruption Bureau, Gujarat Government for investigating the matter pertaining to the engagement of middleman by GEB for getting waiver of demurrage charges. The contents of the letter are as under:—

“.....GEB being a Government organization demurrage charges of the GEB are very liberally waived to the tune of 80 per cent to 90 per cent. In spite of this, the GEB have appointed M/s Chirag & Co., 102-Yogi Darshan Apptt., Opp. Nutan Bharat Club, Alkapuri, Baroda (Proprietor Sh. Surendra Shah) as middleman supposedly to get waiver of demurrage from the Railway Officials and, in return, he is getting 25% of the amount waived, as commission. Looking to the total accrual of demurrage, which is to the tune of Rs. 1 crore to Rs. 1.25 crore a month, the middleman is getting about Rs. 10 lakhs a month as Commission..... Railway Board *vide* their letter No. 98/TEI/10/2/PT-II dated 26.5.2001 had asked the GEB to explain about this corrupt practice. However, they have denied that they have appointed any middleman despite the fact that middleman has been appointed officially and an arrangement with the middleman exists in which payment of 25% of the amount waived is being paid through cheque... This appears to be a *prima-facie* case of corruption.”

41. The Committee have noted that in their letter dated 30th August 2001, addressed to Ministry of Railways (Railway Board), Gujarat Electricity Board had categorically stated that they have not employed any middleman/contractor for waiver of demurrage charges. However, the Committee find that there was a passing reference to utilizing the services of an external consultant by GSECL in para 6 of the said letter. Relevant extract of the letter are as under:

“..... Since it is very difficult for GEB to collect all the relevant instructions on their own, GEB has no option but to utilize the services of some external consultants to assist/advice in the matter related to Railways.”

42. In this regard GSECL in their post evidence reply stated as under:—

“At the outset, it is clarified that the matter of employing meant keeping a person on the Pay Roll of GSECL which was denied *vide* our letter of 30.8.2001. The consultant was not an employee of GSECL and as such there is no concealment of facts on the part of GSECL. In the same letter, it is also mentioned that we do avail the services of consultant in the matter of Railway claims in view of the complexities of Railway rules and regulations.....”

43. Explaining the reasons for engaging the services of a consultant, the GSECL in their post evidence reply stated as under:—

“Annually, GSECL procures about 140 lakhs MT of coal and the entire coal is being transported through the Railways. The annual freight payments for such movement is around Rs. 1450 crores. In the process, GSECL is required to deal with South Eastern Railway (from where the Traffic originates and GSECL makes payment of freight), Western Railway (for coordinating movement) and Railway Board, New Delhi (for policy issues). Due to such Railways complex business transactions, many issues and disputes arise with the Railways. The operational procedures of the Railways are based on their Rules and Regulations, Tariffs and Railway Act, which are quite elaborate and complex in nature. Therefore, for effective representation and resolution of the issues disputes with Railways, it is essential to understand their procedures and practices and also requires possession of detailed knowledge of their Rules and Regulations including Railway Act. GSECL being a power generation utility, in house skilled personnel in the matter of Railways are not available. Under these circumstances, looking to the importance (in terms of amount involved) of the issues with Railways, GSECL had utilized the services of an external consultant to assist/advice in the matters relating to the Railways. While stating that we had not employed the middleman but, engaged a consultant to assist us in the issues related to Railways, there has been no concealment of the fact by GSECL. The matter of engaging a consultant to assist us in issues related to Railways, which was already indicated in our earlier letter dated 30.8.2001. GSECL is an undertaking of Gujarat Government and they are subject to Government audit. Therefore, it is the duty of GSECL to ensure that Government money is not over-spent in their operations. Since GSECL consumes a large quantum of coal, it has to

ensure that the coal is made available to its powerhouse at the least cost. We have our own responsibility as a Government organization and we cannot be party to any unhealthy arrangement or promote unethical practices.”

44. The Committee during the course of their examination of the subject came to know that one M/s Chirag & Co. had written a letter to GSECL offering their services for waiver of demurrage charges imposed by Railways on GSECL for detention of wagon. When asked whether GSECL was aware of the letter written by M/s Chirag & Co. to them, the GSECL in their written reply stated as under:—

“M/s Chirag & Co. have written an introductory letter to the Chairman, Gujarat Electricity Board offering consultancy services for Railway matters. In that letter, it is indicated that they have been Railway Contractors for many years and also have establishment and contacts in major cities. They have attached Experience Certificate issued to them by various Railway authorities. On the basis of this letter, it was decided to have services of M/s Chirag & Co. as a consultant for railway claims.”

45. On being asked whether GEB had engaged M/s Chirag & Co. as their consultant for getting waiver of demurrage charges, GSECL in their post-evidence reply stated as under:—

“As indicated earlier, GEB had engaged M/s. Chirag & Co. for waiver of demurrage charges. However, it is pertinent here to note that specialized knowledge is also required in respect of claim on account of non-delivery, diversion, damages or shortage, time barred cases and missing wagon claims. Further the reduction/abolition/refund of freight charges are other spheres in the railways for which expert is required for railway policy and rules. GSECL was availing the services of consultant for this entire gamut of activities and not just the demurrage waiver.”

46. When asked about the terms and conditions of Agreement entered into by GSECL with the middleman (consultant) for waiver of demurrage charges, the GSECL in their post evidence reply stated as under:—

“The terms and conditions of Agreement entered into by GSECL with the consultant for waiver of demurrage charges in terms of the order placed on them in April, (1998) of Railways are as under:—

Demurrage waiver upto 65 per cent, no service charges were payable and demurrage waiver above 65 per cent, 25 per cent of the amount waived above 65% was payable as remuneration to the consultant. This remuneration was payable on the actual waiver of demurrage charges by the railways.”

47. The details of the remuneration paid by GSECL to the consultant for effecting waiver of demurrage charges by the Railways and total amount paid to the consultant during the last 5 years is given below:—

**YEAR-WISE DEMURRAGE DETAILS, RAILWAY FREIGHT & TRANSIT LOSS
GEB AS A WHOLE**

							Rs. in lakh
Year	DMC Billed	DMC Waived	% Waiver	DMC paid by GEB	Comm. Paid to Consultant	Net Saving to GEB	Paid in % of Demurrage Waiver
2000-01	705.04	625.62	88.84	79.42	42.03	583.59	6.72%
2001-02	722.95	644.59	89.16	78.36	45.48	599.11	7.06%
2002-03	512.32	445.16	86.89	67.16	15.35	429.81	3.45%
Total...	1940.31	1715.37	88.41	224.94	102.86	1612.51	6.00%
2003-04	599.92	491.32	81.90	108.60	0.00	491.32	0.00%
2004-05	550.55	355.60	64.59	196.35	0.00	354.20	0.00%
Total	1150.55	846.92	73.62	304.95	0.00	845.52	0.00%
G.Total..	3090.78	2562.29	82.90	529.89	102.86	2458.03	4.01%

48. When asked whether Anti-Corruption Bureau, Gujarat State have conducted investigation in the matter of engagement of middleman by GSECL, the GSECL in a written reply stated as under:—

“Letters No. Investigate/GEB/385/2 dated 21.10.2002 from the Director, Anti-Corruption Bureau and from the Dy. Secretary, Energy & Petrochemicals Deptt., Govt. of Gujarat were received in this regard to the report made by Anti-Corruption Bureau alleging irregularities in appointment of Middleman by GSECL for waiver of Railway demurrage charges. GSECL has submitted *vide* letter dated 28.3.2003 the detailed reply to these letters establishing that GSECL has as a commercial decision appointed the consultant in the matter of Railways and therefore, the contention of the letter of Director, Anti-Corruption Bureau is inappropriate and incorrect. Anti-Corruption Bureau was not able to establish any irregularity or inappropriateness in the matter of appointment of consultants for settlement of Railway demurrage claim. However, it was recommended *vide* letter dated 19.8.2003 to avail the services of experienced officials for the purpose of demurrage waiver. Thus the Director, Anti-Corruption Bureau was not able to prove any irregularity and accordingly the enquiry was dropped.”

Investigation by Vigilance Directorate of Railway Board

49. The Committee were informed that a complaint regarding injudicious waiver of demurrage charges in respect of M/s. GEB was investigated by the Vigilance Directorate of Board's office. The investigation report was considered and the case was referred to CVC for advice, with Board's recommendation of closure of the case. CVC advised that Board vigilance may constitute a Committee of three officers, which

may go through the cases of abnormally high refunds allowed to M/s Gujarat Electricity Board and decide whether the decisions were prudent or not. Pursuant to CVC's advice, a Committee consisting of three officers was appointed for examining the issues raised by the CVC.

50. The findings/conclusions of the Committee of officers are as under:—

- (i) Since waiver of demurrage is a discretionary power, there is bound to be difference in percentages of waiver by the various waiving authorities. However, in the cases covered, it is found that the trend of waiver has been generally similar by the various authorities at different levels and on different Divisions.
- (ii) The denial of additional free time for pulling and pushing of rakes from exchange yard and shunting operations within the power station premises and non-application of allowance for bunching of rakes has resulted in avoidable and artificial enhancement of the demurrage bills to the obvious disadvantage of the powerhouses.
- (iii) The appropriate course of action, therefore, would be to conduct time and motion studies as per extant instructions and prepare the bill taking into account the additional free time admissible to the powerhouses for the shunting operations as well as on account of the bunched arrival of rakes. Since the time and motion studies for individual sidings are a time consuming process, it gets neglected by default. Appreciating this aspect, perhaps, Board have issued instructions regarding permissible free time for loading and unloading *vide* letter dated 15.2.05 prescribing additional free time on the flat rate depending upon the length of the siding.
- (iv) The fact that M/s GEB is a Government Organization and the biggest freight provider to the Western Railway were an important consideration recorded by the waiving authorities while being liberal in waiver of demurrage charges. This point was prominently highlighted by most of the waiving authorities in their speaking orders.

51. The Ministry of Railways have stated that the case was examined in the Railway Board's office and sent to CVC with the recommendation of closure of the case. In their advice CVC has observed that although the Committee of 3 SAG officers has not found any serious irregularities, it is clear from the report that due to non-compliance of the instructions of Board, initial bills for demurrage were artificially inflated. This could have enabled the middleman to locate the loopholes for their advantage in screening hefty documents. The officers concerned need to be dealt with for not following Board's instructions in the matter of calculating free time and allowing this racket to go on. CVC has advised the department to examine the matter carefully and fix the responsibility of concerned officials.

52. The Ministry have informed the Committee that CVC's advice in the matter had been conveyed to Western Railway for further investigation in the matter which is still awaited.

53. The Committee enquired whether Railway Board had undertaken detailed time and motion studies for calculating the “Free time” with specific reference to Power House Station as recommended by SAG. In response, Ministry of Railways stated as under: —

“Western Railway was required to undertake the ‘Time & Motion Study’ of the sidings of Gujarat Electricity Board but this could not be done primarily because of non- acceptance by rail users. However, in order to provide relief to all the rail users including Gujarat Electricity Board, Ministry of Railways have decided that a maximum of 2 hours of additional free time may be granted with effect from 15-7-2005 for additional activities other than loading/unloading.”

54. When asked about the material evidence and the reasons that prompted the Ministry of Railways (Railway Board) to recommend for closure of the case, the Ministry of Railways in their post evidence reply stated as under:—

“For a proper appreciation of the Railway’s stand, it is necessary to underline the fact that Railways had no role whatsoever in appointment of the agent by GEB. The agent was not a Railway employee, as mistakenly portrayed, but an ex- Railway coal contractor. The Railways were unaware of the appointment of the agent and the terms and conditions finalized by GEB until much later, *i.e.* in 2001, when it came to the notice of then Member/Traffic, who promptly apprised the Minister of Railways. The then Minister of Railways (MR) decided to take up the matter with the Government of Gujarat. However, Government of Gujarat denied appointment of any middleman and instead stated that they had obtained the services of a consultant to advise them on Railway matters. In point of fact, the full facts relating to the remuneration to the agent (as % to the demurrage waiver, and not on a fixed basis), came to light only when Audit furnished documents from the records of GEB at the Draft Audit Para stage in April 2004. It is relevant to mention that the case of appointment of an agent by GEB was also investigated by the Anti-Corruption Bureau (ACB) of the Government of Gujarat. It did not find any fault with this practice and only recommended that GEB should consider appointment of a senior officer in place of the agent, as it was costing more to the GEB.”

55. The other reasons that prompted Railway Board to recommend closure of the case were stated to be as under:—

“(a) As per para 1105 of the “Indian Railway Code for Traffic (Commercial) Department”, powers of waiver of demurrage should be exercised judiciously, keeping in view the merits of each case. Whenever waiver exceeds 50%, reasons for such waiver should be recorded in writing. Thus, there was no bar on high waivers of demurrage charges, provided there were sufficient reasons for it and detailed speaking orders were given for such waivers. Hence, the sheer fact of relatively high waivers of demurrage in this case cannot be held against Railway officers. No Railway rules were violated in ordering these high waivers. The existing rules have laid down grounds on which waiver is to be granted.

- (b) The Gujarat Electricity Board (GEB) is a premier customer and Government agency. Hence, it was given high waivers of demurrage.
- (c) There was no proof that the concerned Railway officials received any favour in lieu of high waivers.
- (d) Appointment of an agent and any benefit given to him to facilitate coordination with Railways was an internal matter of GEB. Railway officials did not have any role to play in this respect.
- (e) The benefit of waiver was given directly to GEB, and not to its agent.
- (f) In case of large sidings and premier customers like GEB, only main reasons are required to be mentioned rather than detailed. Detailed reasons are only required in case of waiver of small sidings/customers.”

56. On being asked as to how the Vigilance Department of Railways(Railway Board) or Western Railway could not detect the commissions/omissions committed by the concerned Railway officials with regard to non-compliance of Board’s instructions in the matter, the Ministry of Railways in their post evidence reply stated as under:—

“.....there was no serious omission/commission committed by the Railway officials. Additional free time for pulling and pushing of rakes from the exchange yard and shunting operations within the power house premises was to be calculated after conducting time and motion studies. However, these studies were not carried out in the case of M/s. GEB. However, free times for unloading for GEB sidings were not fixed after concluding Time and Motion studies. In absence of Time and Motion study, the demurrage charges may have been inflated and thus appeared higher than what would have been the case if Time and Motion study had been carried out. However, as subsequently the demurrage was substantially waived, the action has no consequence. This is at best a case of procedural lapse and is essentially an administrative matter. There is no vigilance angle involved in this aspect. This lapse may have been occasioned due to this process being very time consuming. This problem may have occurred elsewhere as well. For this reason, the Railway Board has recently prescribed additional free time on a flat rate, depending upon the length of the siding (*vide* letter No.TC-I/2004/201/4 Pt. ‘A’ dated 15.2.2005). This instruction implicitly shows that the earlier instruction of organizing detailed time & motion studies at each siding was considered time consuming, given the busy nature of operations at the ground level. Moreover, in some other Railway sidings where time and motion studies were conducted, the resultant modification in the free time was disputed by the siding owners, making this a rather unsatisfactory method of fixing free time. In any case, this lapse has occurred on the safe side, *i.e.* to the benefit of Railways, by not providing any additional free time to GEB. This aspect was considered not to have any vigilance angle.”

XIII. Findings/observations made by CVC in the case of injudicious waiver of demurrage charges in respect of GSECL.

57. The findings/advice of the CVC in the case and action taken thereon by the Ministry of Railways are as under:—

“a. *Advice dated 5.11.2004:*

The Commission has noted with concern that the Government organizations and the public sector undertakings feel the need for appointing middlemen/consultants to take care of their problems of demurrage charges with the Railways. It also understands that M/s Indian Oil Corporation have also appointed middlemen for their matters to be dealt with in Vadodara Division of Railways. This is certainly an area calling for a close study by the Railway vigilance to improve transparency and reduce scope for corruption. They may consider framing guidelines in association with their traffic department on the range of demurrage, which could be allowed in various circumstances.

With regard to this particular case, the Commission would advise that the Railway Board vigilance may constitute a committee of three senior officers, with one or two officers from IRTS, which may go through all cases of abnormally high refunds [say above 75%] allowed to M/s Gujarat Electricity Board and decide whether the decisions were prudent or not. Based on the report of the Committee, further action in the matter could be considered. The Railway Board may also furnish the exact percentage of demurrage waiver allowed to M/s Gujarat Electricity Board for last three financial years during which M/s. Chirag was the consultant for M/s Gujarat Electricity Board [say 1999-2002], and two financial years thereafter [say 2002-2004] to the Commission.

Action taken by Railway Board

- (i) A Committee of three senior officers of Joint Secretary rank was constituted, as per the advice of CVC. The Committee did not find any irregularity in waiver of these cases of demurrage. It stated that, since waiver is a power which varies from case to case depending on specific circumstances, there is bound to be difference in percentages of waiver by the various waiving authorities. However, in the cases covered, it was found that the trend of waiver was generally similar by the various authorities at different levels and on different Divisions. It noted that the fact that M/s. GEB is a Government organization and the biggest freight provider to Western Railway were important considerations recorded by the waiving authorities while being liberal in waiving its demurrage charges.

The Committee also observed that the denial of additional free time for pulling and pushing of rakes from the exchange yard and shunting operations within the power station premises, as well as non-application of allowance for bunching of rakes has resulted in avoidable and artificial

enhancement of the demurrage bills to the obvious disadvantage of the powerhouses. It mentioned that the appropriate course of action would be to conduct time & motion studies as per extant instructions and prepare the demurrage bill taking into account the additional free time admissible to powerhouses for shunting operations as well as on account of the bunched arrival of rakes. It noted however, that since these studies are time consuming, they get neglected by default. It added that, perhaps in appreciation of this aspect, Railway Board issued instructions on 15.2.2005, fixing additional free time on a flat rate depending upon the length of the siding.

- (ii) As regards framing guidelines on waiver of demurrage, Board (MT) observed that fresh guidelines have been issued on 11.10.2004 regarding this aspect. However, he also observed that no specific range for waiver of demurrage can be laid down as the reasons for accrual of demurrage charges vary from case to case. It is upto the discretion of the competent authority to examine merits of individual cases and take a decision on granting waiver."

b. *Advice dated 26.5.2005:*

The Commission has perused the investigation report and the comments of the administrative authorities thereon. It has observed that the Committee of 3 senior officers has not found any serious irregularities. However, it is clear from the report that due to non-compliance of the instructions of the Board, initial bills for demurrage were artificially inflated. This would have enabled the middlemen to locate the loopholes for their advantage in securing hefty discounts. The Commission is not inclined to accept that all this is routine and normal. The officers concerned need to be dealt with for not following Board's instructions in the matter of calculating free time and allowing this racket to go on. The Commission would, therefore, advise the Railway Board to examine this carefully and fix the accountability of the concerned officials. The Railway Board may also ensure that this is not the 'routine' everywhere.

Action taken by Railway Board

The case was referred back by Railway Board to CVC, with the observation that there is no vigilance angle in this matter of time & motion studies not being conducted. It is at best a case of procedural lapse, which may have been occasioned due to this process being very time consuming, as observed by the three-member Committee as well. This problem may have occurred elsewhere as well, for the Railway Board has recently prescribed additional free time on a flat rate, depending upon the length of the siding (*vide* letter No.TC-I/2004/201/4 Pt. 'A' dated 15.2.2005). This instruction implicitly accepts that the earlier instruction of organizing detailed time & motion studies at each siding was cumbersome to implement, given the busy nature of operations at the ground level. In any case, this lapse has occurred on the safe side, *i.e.* to the benefit of Railways, by not providing any additional free time to GEB.

c. *Advice dated 5.9.2005:*

The Commission has considered the facts of the case. The Commission had advised the Railway Board to:

- (i) consider framing guidelines on range of demurrage which could be allowed in various circumstances,
- (ii) constitute a Committee to decide whether decisions of abnormally high refunds were prudent or not and,
- (iii) fix accountability of concerned officials for not following Board's instructions in the matter of calculating free time and allowing the racket to go on.

It is observed that Railway Board has taken action only in respect of constituting a Committee. However, the Committee could not give any findings on the main purpose for which it was constituted *i.e.* to find whether waivers were prudent or not. Instead, it concluded that it was difficult to comment on this because waiver of demurrage charges was discretionary in nature and there was bound to be difference in decisions taken by waiving authorities. It further added that trend of waiver had been generally similar. In this connection, the Commission has observed that the Committee constituted by Railway Board has evidently wanted discretion to continue waiver of demurrage charges, when even the Supreme Court wants discretion of the Government to be circumscribed by clear guidelines *viz.* Petrol Pump case. Further, in the absence of guidelines, any contrary exercise of discretion will have to be considered as having a definite vigilance angle. In this connection, Railway Board may also like to refer Commission's order No. 23.04.04 dated 17th April, 2004 which indicates various circumstances attracting vigilance angle. The Commission would, therefore, reiterate its previous advices dated 5.11.2004 and 26.05.2005 to consider framing guidelines on range of demurrage which could be allowed in various circumstances and to fix the responsibility of the concerned officials.

Action taken by Railway Board

The Ministry of Railways (Railway Board) in a written reply have stated that the above advice of CVC was placed before the Member Traffic, Railway Board who observed as under:

“Railways are conscious of the possible undesirable consequences of unbridled discretionary powers. In October 2004, Railways have carefully drawn an elaborate system of delegation of varying degrees of financial powers at different levels together with detailed guidelines with the objective of providing appropriate checks and balances in exercise of the powers of waiver.

Concurrence of the associate finance is required for waiver of demurrage if the amount involved is more than Rs. 25,000. Also, in cases of waiver beyond 50% detailed reasons are required to be recorded by the officers granting such

waiver. As per guidelines issued by Railway Board in April 1986 and modified in October 2004, delegation of powers to officers at various levels is as under:

Officer's rank	Amount per wagon upto which demurrage can be waived	
	As per orders of April 1986	As per orders of October 2004
GMs	Full powers	Full Powers
CCM/COM & PHOD level officers	100000	100000
DRM	25000	25000
JA Grade Officers	6000	6000
Sr.Scale Officers	3000	600
Jr.Scale Officers	750	300

Delegated powers, as mentioned above, amount to waiver of detention hours per wagon as under:—

Officer	Power in Rupees		Power in terms of detention hours per wagon up to which demurrage can be waived			
	1986	2004	1986	1992	2002	2005
Asstt. Officers	750	300	21	12	12	3
Sr. Scale Officers	3000	600	65	42	41	6
JA Grade Officers	6000	6000	117	69	68	42
DRM	25000	25000	445	233	226	107

It may be observed that the power to waive in terms of detention hours has been reduced over the years. As a result, the powers of waiver have been curtailed particularly at the lower levels in the hierarchy.

The earlier rate of demurrage charges per wagon hour, being subsequently more than the actual cost of wagon hour, the rate of demurrage charges have been reduced substantially in the year 2006 and has been brought down to a uniform level of Rs. 75 per hour from the earlier level of Rs. 100, Rs. 200 & Rs.300 per hour, respectively, for 1st, 2nd and 3rd day. Demurrage charge has been reduced, as it is not considered a source of revenue but a deterrent charge to reduce detention of wagons, which is a precious asset. The major reduction in the rate of demurrage implies a reduced imposition and accrual of demurrage charges. This reduced accrual of demurrage would lead to minimal use of the discretionary power of waiver.

While it has not been possible to lay down yardsticks for waiver in terms of a clear range of percentages for each circumstance due to the complex nature of operations at the field level which cannot be comprehensively enumerated, Railways have put in

place an alternative mechanism under which decision making is done at the appropriate rank of officers depending upon the financial value of the decision. Powers of waiver in the higher ranges are given to officers in grades of DRM and above who are also entrusted to take high value financial decisions in most other areas of Railway's working.

In addition, policy guidelines also lay down specific criteria for waiver of demurrage charges.

“While attempts have been made to account for a wide range circumstances in order to facilitate judicious waiver decisions, yet there are innumerable varieties of local conditions that cannot even be visualized by a central policy-maker. It is here that some discretion has to be permitted to functionaries at the cutting edge.

It is important to note that demurrage charges are not a source of earnings for the Railways. Its levy and waiver are tools to improve wagon utilization, terminal management, wagon turnaround, etc. It has utility as a marketing tool as well, the importance of which is being increasingly observed in this fiercely competitive age.

While some degree of discretion is inescapable and, indeed, imperative, the germane point is that this discretion has been circumscribed by concentrating waiver powers mostly at higher, more responsible levels; stipulating finance concurrence beyond the limit of Rs. 25,000 and insisting on strong reasons for waivers exceeding 50%.

Thus, the Ministry of Railways has adopted sufficient safeguards in this sphere, in an endeavour to significantly reduce the discretionary element in waiver of demurrage charges.”

In view of the above, it is requested that CVC may consider closure of the case.”

58. The Ministry have stated that the aforementioned views of the Board were communicated to CVC on 17.03.06 requesting for closure of the case. In this connection, the CVC made the following observations:—

- “1. The Committee constituted by Railway Board has concluded that it was difficult to comment whether abnormally high refunds were prudent or not. This is not convincing.
2. Railway Board has intimated that it has not been possible to lay down yardsticks for waiver in terms of clear range of percentage due to complex nature of operation. Further, power of waiver has been curtailed particularly at lower level and discretion has been concentrated mostly at higher levels. However, it has been observed that direction have been exercised arbitrarily in this case because in similar cases, waiver in respect of Sevalia, Gandhi Nagar & Ukai Power Plants have been much higher as compared to Sikka Power Plant.
3. Railway Board has not intimated as to whether any action has been taken to fix the responsibility of officials. They may do so now.”

In view of the above the Commission also decided to include this case in its Annual Report for the year 2006.

59. The Ministry have further stated that the matter was again examined by Board (MT), who observed as under:—

“ I have examined this case and related policy issues yet again. It needs to be appreciated that the degree of discretion in waiver of demurrage has reduced substantially over the years, by concentrating waiver powers mostly at higher, more responsible levels; stipulating Finance concurrence beyond the limit of Rs. 25,000/- and insisting on strong reasons for waivers exceeding 50%. At the same time, an element of discretion in the waiver of demurrage is inescapable, since local conditions vary considerably across regions and time. No two cases are identical and hence it is not feasible to compare cases of waiver of one power plant with another.

In the case of Gujarat Electricity Board, it needs to be borne in mind that the amount of waiver of demurrage was less than 1% of the freight paid by this concern.

In view of the above, I reiterate my earlier opinion that no irregularity has been committed in this case and, hence, no action is warranted against any official.”

60. The Committee were informed that in view of the above, this case is being treated as closed in the Railway Board's office and the CVC has been advised of this as well.

61. The Committee have been informed that the CVC's advice dated 26.5.2005 in the matter was referred to Western Railway on 2.6.2005. When asked whether Western Railway had completed their investigation in the matter and submitted the report to Railway Board, the Ministry of Railways in a written reply is stated as under:—

“This aspect has not been investigated as yet, because of the view taken by Railway Board (MT) that there is no vigilance angle in the matter of time and motion studies not being undertaken to calculate additional free time. This procedural lapse may have been occasioned due to this process being very time consuming. Perhaps in recognition of this problem, the Railway Board has recently prescribed additional free time on a flat rate, depending upon the length of the siding (*vide* letter No.TC-I/2004/201/4 Pt. 'A' dated 15.2.2005). This instruction implicitly shows that the earlier instruction of organizing detailed time and motion studies at each siding was considered time-consuming, given the busy nature of operations at the ground level.”

OBSERVATIONS AND RECOMMENDATIONS

62. Section 2(11) of Railway Act, 1989, defines demurrage as the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention. The main objective of levying demurrage charges is to reduce wagon detentions and thereby improve wagon turn round. According to Railways, demurrage charge is a marketing tool used as a leverage to persuade rail users to make investments for improving their handling systems so as to release railway wagons expeditiously. It is not a charge for any service rendered. Waiver of demurrage is essentially a business decision in which the impact of full levy on the consignee's business and liberal waiver on wagon detentions will have to be carefully balanced. Consideration of waiver of demurrage takes into account a host of factors including the extent to which such levies work as disincentives for the particular traffic for choosing rail as the preferred mode of transport.

63. The Committee note that Gujarat State Electricity Corporation Limited (formerly Gujarat Electricity Board) receives Coal and residual fuel through Railway rakes in their five sidings at Ukai Songarh, Sevaliya, Dhuvaran, Gandhinagar Capital and Sikka. Audit scrutiny of records of all five sidings of GSECL revealed that waiver of demurrage charges accrued on account of detention of wagons by GSECL which was around 55 per cent in 1991-92 abruptly increased to 71 per cent in 1992-93. The increasing trend continued in subsequent years and reached 89 per cent in 2001-02. The position did not improve even in the subsequent years as the percentage of waiver of demurrage charges continued to range between 70% to 90% in some of the Power Houses of GSECL. The Ministry of Railways have attributed the reason for the rising trend in waiver of demurrage charges to the increase in the traffic volumes at the GSECL sidings. It has also been stated that the cumulative waiver of demurrage charges between 1998-99 to 2003-04 was only 0.43% of total freight earnings of Railways during that period. The Committee are not convinced by the reasons given by the Ministry of Railways for increase in waiver of demurrage charges. Far from giving a plausible explanation therefor and in furnishing the details of the measures taken for reducing the waiver of demurrage charges, the Ministry have tried to find solace in the fact that demurrage charges waived constituted only a small percentage i.e. 0.43% of total freight earnings of Railways, which is nothing but regrettable.

64. The Committee are informed that the Railway Board have been issuing directives from time to time regarding waiver of demurrage charges. One such directive was issued in March 1995 in which the Railway Board had stipulated that not more than 25 per cent of accrued amount should be waived and reasons for waiver above 10 per cent should be recorded. However, Audit review has revealed that non-observance of this directive by Western Railway resulted in extra waiver of Rs. 41.58 crore in respect of five sidings of GSECL alone for the period from 1995-96 to 2003-04. The Ministry of Railways have explained that the Railway Board's directive

issued in March 1995 was not a rule as the letter was issued by Advisor (Traffic) who was not authorized to issue any letter on the commercial matters including policy for waiver of demurrage charges. According to Railways, only the policy instructions contained in the Boards letter of 23-4-1986 were applicable for waiver of demurrage charges. The Ministry have stated that in terms of para 1102 of Indian Railway Code for Traffic (Commercial), General Managers of the Zonal Railways have full powers to waive demurrage charges irrespective of the amount involved. The Committee are surprised that the Railway Board have not explained the reasons due to which a Senior Officer of the Railway Board issued such a directive *suo motu* regarding waiver of demurrages, while he was not authorized to do so. The Committee deprecate the casualness with which such important policy decision was taken by some of the Railways officers occupying highest position in the policy making body such as Railway Board without knowing its implications. The Committee have not been intimated whether any instructions were issued subsequently by Railway Board barring its Senior Officers from issuing such unauthorised instructions, thereby causing loss to the Railways in the process. The Committee would like to be informed of the steps taken by the Ministry of Railways (Railway Board) in this regard.

65. The Committee have been given to understand that the increase in the waiver of demurrage charges in respect of sidings of GSECL during 1991-92 to 2001-02 coincided with the appointment of a middle man by GSECL in April 1992 for pursuing demurrage cases with the Railways, as the remuneration of middle man was directly linked to the amount of demurrage waived. The jump from 55 per cent to 89 per cent in waiver in monetary terms amounting to Rs. 22.50 crore was directly attributed to the involvement of middle man. The unintended beneficiary of the Railways excessive and unjustified use of discretionary powers of waiver was the middleman who received Rs. 5.15 crore from GSECL for his services in affecting of waiver of about Rs. 61.96 crore during the period 1991-92 to 2001-02. The Ministry of Railways (Railway Board) have stated that the matter of appointment of middleman by Gujarat State Electricity Corporation Ltd. came to their knowledge in April 2001 informally and they took up the matter with Government of Gujarat in May 2001. In response, the GSECL *vide* their letter dated 30th August, 2001 addressed to Railway Board had categorically stated that they had not appointed any middleman or contractor to get waiver of demurrage charges and they had obtained the services of a consultant only for advising them on Railway matters. At that stage the Ministry of Railways did not find anything wrong in the statement and took the response of GSECL on face value. It was also stated that the fact that GEB had also terminated the services of middleman did not come to their notice at that time. The full details of the case came to their notice only when Audit furnished the documents from the records of GSECL at the draft Audit stage in April, 2004. It was only at this stage that Railways learnt that remuneration of middle man was linked in percentage terms to the amount realized from the Railways. The Ministry of Railways have further informed the Committee that they did not have any direct dealings with the Consultant appointed by GSECL and that GSECL addressed all representations to Western Railway only and the consultant did not address to the Railways. During the course of examination of the subject, the Committee were informed by GSECL that the consultant was not an

employee of GSECL and as such there was no concealment of facts on the part of GSECL. However, the Committee note that it is only after Railways came to know about the engagement of a middleman that GSECL chose to reveal the facts to the Railways. Even in their letter dated 30th August, 2001 addressed to Railway Board though GSECL categorically denied having employed a middleman, however, they did not furnish details regarding engagement of the consultant such as terms and conditions of contract etc. It was thus left to the Audit to reveal that GSECL had engaged a consultant for waiver of demurrage charges and the remuneration to the consultant is directly linked to the extent of waiver of demurrage. When the matter came to the notice of Railways and consequent upon investigation by ACB, Gujarat, the contract with the consultant was terminated by GSECL in December 2002.

Though the Committee appreciate the difficulties faced by the GSECL in the calculation of demurrage charges for which consultant has been engaged, nevertheless the fact remains why such a decision was not disclosed to the Railways. By not doing so GSECL had tried to hide the facts about the engagement of consultant, thereby giving an inescapable impression that there was something fishy in the whole affair. This has given raise to the suspicion in the mind of the Committee that by appointing a Railway contractor as consultant who was given substantial fee (Rs. 5.15 crore) in this case ultimately resulted a loss to the Railways revenue. Given the fact that the rules and regulations and various procedures governing Railway tariff including the Railway act are quite elaborate and complex in nature, the Committee are of the view that there is no harm in engagement of consultant by GSECL for effective representation and resolution of disputes that may arise with the Railways. Nevertheless GSECL ought to have ensured that the consultant which it had engaged did not act as a middleman and cause loss to the Railways revenues.

66. The Committee note that a complaint regarding injudicious waiver of demurrage charges in respect of M/s. GSECL was investigated by Vigilance Directorate of Railway Board. The investigation report was considered and the case was referred to Central Vigilance Commission for advice with Board's recommendation of closure of the case. However, the CVC *vide* their advice dated 5.11.2004 recommended that Board vigilance may constitute a Committee of three officers, which may go through the cases of abnormally high refunds allowed to GSECL and decide whether the decisions were prudent or not. The Committee of three Officers appointed by Railway Board in their Report have observed that in the cases covered, it was found that the trend of waiver had been generally similar by the various authorities at different levels and in different Divisions. However, the denial of additional free time for pulling and pushing of rakes from exchange yard etc. has resulted in avoidable and artificial enhancement of the demurrage bills to the obvious disadvantage of the powerhouses. The appropriate course of action, therefore, would be to conduct time and motion studies and prepare the bill taking into account the additional free time admissible to the powerhouses. The case was examined by the Railway Board and sent to CVC with the recommendation of closure of the case. In their advice to Railway Board dated 26th May, 2005 the CVC had recommended for fixing accountability on the concerned officials for not following Board's instructions in the matter of calculating free time and allowing the racket to go on.

The Railway Board while referring the case back to CVC, had observed that there is no vigilance angle in this matter and it is at best a case of procedural lapse, which may have been occasioned due to the process of conducting time & motion studies being very time consuming. However, the CVC in their further advice dated 5.9.05 while commenting that the committee constituted by Railway Board had evidently wanted discretion to continue in waiver of demurrage charges, when even the Supreme Court wants discretion of the Government to be circumscribed by clear guidelines *viz.* petrol pump case, reiterated its previous advice asking Railways to consider framing guidelines on the range of demurrage which could be allowed in various circumstances and to fix the responsibility of the concerned officials. In their reply to CVC, Railway Board stated that it had not been possible to lay down yardsticks for waiver of demurrage in terms of a clear range of percentages for each circumstance due to the complex nature of operations at the field level which cannot be comprehensively enumerated. While attempts have been made to account for a wide range of circumstances in order to facilitate judicious waiver decisions, yet there are innumerable varieties of local conditions that cannot even be visualized by a central policy-maker. It is here that some discretion has to be permitted to functionaries at the cutting edge. While some degree of discretion is inescapable and, indeed imperative, the germane point is that this discretion has been circumscribed by concentrating waiver powers mostly at higher, more responsible levels. The views of Railway Board were communicated to CVC on 17.3.06, upon which the Commission has made the following observations:

- “1. The Committee constituted by Railway Board has concluded that it was difficult to comment whether abnormally high refunds were prudent or not. This is not convincing.
2. Railway Board has intimated that it has not been possible to lay down yardsticks for waiver in terms of clear range of percentage due to complex nature of operation. Further, power of waiver has been curtailed particularly at lower level and discretion has been concentrated mostly at higher levels. However, it has been observed that directions have been exercised arbitrarily in this case because in similar cases, waiver in respect of Sevalia, Gandhi Nagar & Ukai Power Plants have been much higher as compared to Sikka Power Plant.
3. Railway Board has not intimated as to whether any action has been taken to fix the responsibility on officials. They may do so now.

In view of the above the commission also decided to include this case in its Annual Report for the year 2006.”

The matter was again examined by Board (MT), who observed that since local conditions vary considerably across regions & time, no two cases are identical and hence it is not feasible to compare cases of waiver of one power plant with another. In the case of GSECL, it needs to be borne in mind that the amount of waiver of demurrage was less than 1 per cent of the freight paid by this concern. In view of this no irregularity had been committed in this case and, hence, no action was warranted

against any official. The Committee were informed by the Ministry of Railways that in view of above, this case is being treated as closed in the Railway Board's office and CVC has been advised accordingly.

From the foregoing, it is evident that Railway Board has adopted an intransigent and inflexible approach towards the issue of waiver of demurrage charges and had justified vesting of discretionary powers with the higher level of Officials for waiver of demurrage charges from the Railways business point of view. The Committee having considered the facts of the case recommend that Railways may consider the feasibility of appointing an expert Committee comprising experts drawn from the fields of transport sector, Railway users/utilities associations and apex organizations of industrial houses etc. to go into the entire gamut of the mechanism of accrual and waiver of demurrage charges and to suggest measures for circumscribing and curtailing the discretionary powers vested with the Railway Officials to the extent possible.

In the light of observations made by the Central Vigilance Commission in the matter of waiver of demurrage charges in respect of GSECL, the Committee also recommend that the Expert Committee may also examine and report on the following issues:

- (i) To conduct fresh Time and Motion studies taking into account the additional free-time admissible to the power houses for shunting operations etc.
- (ii) Framing of guidelines on the range of waiver of demurrage which could be allowed in various circumstances.

67. The Committee note that under the extant instructions issued by Railway Board in respect of large sidings like those of power houses it is not necessary to record speaking orders in respect of each and every consignment or a wagon and it would be sufficient if broad reasons are given in support of such periodical waivers. The Committee are of the view that the system of giving broad reasons instead of recording speaking orders with regard to waiver of demurrage charges in respect of power houses, conceals elements of nepotism, favouritism and corruption. They therefore, recommend that the present system should be totally done away with. The Committee recommend that Railways should consider the feasibility of framing guidelines for waiver of demurrage charges in respect of power houses, whereunder specific reasons for waiver should be recorded in writing while exercising the discretionary powers of waiver of demurrage charges.

NEW DELHI;
2 November, 2006
11 Kartika, 1928 (Saka)

PROF. VIJAY KUMAR MALHOTRA,
Chairman,
Public Accounts Committee.

ANNEXURE-I

SHANTINARAIN
ADDL. MEMBER (TRAFFIC)

D.O. No. 96/TT(V)/58

New Delhi, dt. 19-9-1996.

My dear (by name)

I am enclosing herewith a copy of Board's message No. TC-I/95/107/1 dated 13-9-1996 regarding compulsory pre-payment of freight for coal consignments booked to all Power Houses/State Electricity Boards with effect from 1-10-1996.

2. The above decision has been taken by the Government and is, therefore, to be implemented without any exception. It is necessary to advise all the concerned Power Houses/State Electricity Boards about this decision to enable them to make necessary arrangements for adherence to the pre-payment system.

3. The diversion of coal rakes from one power house to another will also have to be drastically reduced and under no circumstances, coal rakes of any power house should be diverted to another power house belonging to another State Electricity Board or Power Corporation.

Encl. One

Yours sincerely,

Sd/-

(Shanti Narain)

Shri (by name)
Chief Operations Manager,
All Zonal Railways.

ANNEXURE-II

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

No. TCI/95/201/2

New Delhi, dt. 04-9-1996

The General Manager (Comml.),
All Indian Railways.

Sub: Levy of demurrage charges on wagons/rakes handled in a siding.

Recently, a query has been received stating that there is contradiction in para 6 and para 7(e) of Board's instructions circulated vide letter of even number dated 25.11.1995 on the above subject. Para 6 stipulates that the holding capacity of a siding as also the capacity to deal with wagons for loading/unloading or both, in a cycle of 24 hours should not be related to the levy of demurrage. Para 7(e) however states that the levy of demurrage should be related to the free time permissible for a rake or the capacity of siding to load/unload wagons in one placement, whichever is higher.

Regarding para 6 of the instructions, it is clarified that the holding capacity of a siding is the number of wagons that can be held by a siding in a period of 24 hours. This capacity cannot obviously be its handling capacity. Similarly, the capacity of a siding to load/unload wagons in a cycle of 24 hours would be different from the actual capacity of the siding to load/unload wagons in one placement. The capacity to load/unload wagons in a cycle of 24 hours cannot therefore be taken into account for purposes of levy of demurrage charges. To explain this further, a siding may be capable of loading 3 rakes of outward wagons which it may be able to do so, in series, in 3 placements, with each placement availing the free time prescribed for each rake. This siding will have handling capacity for one rake at a time for demurrage purposes. However, if the siding has two points where two rakes can be loaded simultaneously, then its handling capacity is for 2 rakes. In this situation, the free time for two rakes will start concurrently while the free time for the 3rd rake would start after the free time for the first two rakes is completed. This is covered under Para 7(e).

Thus, there is no contradiction regarding the linkage of demurrage charges to the free time permissible for a rake or the capacity of the siding to load/unload wagons in one placement, whichever is higher.

Please acknowledge receipt.

(This disposes of Shri M.M. Farooqi, OCM/SC Railway's D.O. letter No. C/200/GI/Pilot/siding/Vol. II dated 19.6.96 addressed to Shri M.K. Misra, Additional Member (Commercial), Railway Board.

Sd/-

(K.K. SHARMA)
Jt. Dir. Traffic Comml. (R) I,
Railway Board.

No. TCI/95/201/2

New Delhi, dt. 04-9-1996

Copy forwarded for information to:—

1. All Port Trusts.
2. Principal, Railway Staff College, Vadodara.
3. A.D.A.I. (Railways), New Delhi (with 36 spares).

Sd/

(K.K. SHARMA)
Jt. Dir. Traffic Comml. (R) I,
Railway Board.

Copy to:—

(i) EDTT, EDTT(R), EDTT (M&S), EDF(C), TC-II, TC-III, TC-IV, TC(CR), TC(M&S), Evdoet, Stat-V and F(C) Branches for information.

Sd/-

(K.K. SHARMA)
Jt. Dir. Traffic Comml. (R) I,
Railway Board.

ANNEXURE-III

K. Anand, IAS
Member (Administration)

Gujarat Electricity Board
Sardar Patel Vidyut Bhavan,
Race Course, Baroda-390 007,
Phone : 310581-86 (PBX)
339148 (D)
Gram : GUJELBOARD
Telex : 0175-6264
Fax : 0265-337918/354715

17th September 1998

*Sub:— Detention of coal wagons at TPS—Charging of demurrage thereof
by the Railways.*

Dear Shri Jena

First of all I would express my sincere thanks to you and the Railway Administration for adequate supply of coal to our Thermal Power Stations viz. Ukai, Wanakbori, Gandhinagar & Sikka which are only on coal basis. So far there is no generation loss at any of our power stations on account of the continuous supply and transportation of coal by Indian Railways. Our relations with the Railways at the various levels right from Divisional level, Zonal level as well as Railway H.Q at Delhi has remained very harmonious and so far no dispute has arisen between the Board with the Railways and it functions very smoothly.

Recently, we are finding some difficulties at all our power stations because of the detention of the coal wagons due to various reasons which are beyond our control. As a result Railway is imposing heavy demurrage charges to GEB. You will appreciate that by and large we are the biggest customer of Western Railway and the Indian Railway as we are paying a sizeable freight amount of more than Rs. 1200 crores per annum. From time to time even at the Board level Railway has appreciated our fast unloading of wagons at all the power stations. Even in the Standing Linkage Committee meeting, which holds every quarter at Delhi where the top officials of the Railway Board are attending, where also the issue of the detention of the wagons by the various State Electricity Boards is discussed at national level during which the Railway Board has always been appreciating GEB about the minimum detention of the wagons at the power stations. In spite of our best efforts certain reasons which are beyond our control makes the condition miserable and the detention takes place. I would like to

mention the phenomena in brief as under for your kind perusal and consideration please:

(1) Receipt of coal more than linkage:

As you know the design of the unloading of wagons and tippers are made keeping in view the maximum consumption of the coal at the respective power stations. The linkage is also sanctioned by the Standing Linkage Committee accordingly. It has so happened in the recent past that due to the adequate coal available at the mines and the availability of the railways wagons the loading has been increased beyond our linkage and the coal has been pushed to the power stations more than the linkage. A statement for the years 1997-98 and 1998-99 for all the power stations is attached herewith for your perusal. It can be seen that in number of months the coal has been despatched beyond the linkage which has created the problem for the unloading of the wagons as the design capacity of the tippers are as per the daily requirement. Because of our cordial relations with Railways and CIL we have never refused Railway to load the coal beyond our requirement looking to the problems being faced by the Railways at the loading end, we have tried to accommodate to maximum possible as a result the coal stock inventory has gone to the tune of about Rs. 11.2 lacs MT at all the power stations which costs more than Rs. 200 crores. So far we have been co-operating with the Railways by accepting the rakes loaded for GEB and have been requesting from time to time the Railway Board to restrict loading looking to the maximum stock available at the power stations.

(2) Bunching of rakes:

The design of the tippers is made in such a way that they can be continuously operated for two shifts in a day and thereafter maintenance is required regularly. If the rakes are placed by the Railways at the regular interval at the power station then there will not be any problem for unloading. However, it is our experience that number of times the rakes are received in bunches and count down starts for 3 hours at the power station immediately after the rake is entered. We are fully aware of the operation problems with the Railways as it is difficult for the Railways also to place the rakes at regular interval and hence this point needs consideration by the Railways for detention of the wagons when the rakes are placed simultaneously at the power station.

(3) Formation of the Box N rakes:

Since long we are receiving the coal through the Box-N rakes which consists of 58 wagons. As per the Railway practice the rake is not to be disturbed and the entire rake of the empty wagons has to be formed in the same fashion as it has been received. It so happens in many cases that inspite of unloading of the 56 to 57 wagons of the whole rake and if only one or two wagons are detained more than the permissible limit of 10 hours then the entire rake is considered under demurrage by the Railways. This also increases the detention hours and thereby demurrage is occurred.

(4) Curtailment of free time prescribed by the Railway Board for Unloading of the wagons:

The free time prescribed for the unloading of the wagons is exclusively for the purpose of unloading of the wagons and any other work to be done fall outside the perview of the prescribed free time. Other miscellaneous works like release of vacuum, removal of sick wagons etc. Is required to be carried out during the free time only. Earlier these jobs were not considered in the free time hours.

(5) Placement of the rakes at the proper place of unloading:

Generally rakes are to be handed over on the unloading line at the place where the wagons are to be tipped. But, it is observed that because of the operation problems with the Railways the rakes are being handed over in the Railway yard at the far place from the tippler and the count down starts at that point only and thereafter Board has to take the rakes by its own shunters by breaking into small rakes and takes to the tipplers for unloading. All these activities are time consuming and it increases the detention of the wagons. Hence, the rakes should be placed at the place of tipping only and the time should be counted accordingly.

(6) Diversion:

In many cases the rakes are diverted from one station to other station or from one SEB to other by the railways due to their operation problems. We understand that there are clear instructions from the Railway Board not to divert any rake without the consent of the consigner and consignee. The diversion of rakes or short termination of the rakes also increases the burden of unloading at the power station.

(7) Receipt of the unlinked coal:

GEB is not linked with any coal linkage from MCL. In spite of that we are receiving regularly number of coal rakes from MCL at all our power stations. The quality of coal is very bad and of poor grade which increases the problems of unloading as well as generation. It can be seen that whenever the coal has been received from MCL mines the detention has increased at the power station because of the unloading problems.

(8) Quality of coal:

We understand that Railway is not concerned about the quality of coal being loaded by the CIL in the wagons as Railway is only the transporter, but we would like to mention that the quality of coal plays very important role in unloading of wagons. It can be seen that day by day the quality of coal despatched by CIL is deteriorating and there is a grade slippage over and above the receipt of stones, iron pieces, extraneous materials which has been in increase which has resulted into the damaging of the Coal Handling System, plant, crushers, tipplers, conveyer belts etc. And the unloading has been affected to the great extent. The wagon tipplers remain out for longer duration and requires frequent maintenance because of the poor quality of coal which indirectly affects the unloading of wagons and thereby detention and occurring of the demurrage. We are fully aware that Railway is not at all responsible for this. However, it needs a sympathetic consideration for the detention of the Railway wagons.

(9) Unloading of the wagons during monsoon period:

It can be seen that during the normal season GEB is able to unload the wagons fast. However, during the monsoon we become handicap because of the receipt of very poor quality of coal mixed with stones, mud and other materials. You are very well aware that we are receiving the coal from the open cast mines of the CIL only and hence there is regular receipt of overburden alongwith the coal which creates more problems during the monsoon. Sometimes because of inherent characteristics of coal

of some of the mines the coal becomes very muddy and sticky and it has become more difficult for the Board to unload such wagons which has been taken up for the manual unloading.

To some extent we also agree that there are detention of wagons on account of the non-availability of the wagon tippers at the power station which also increases detention hours of the wagons. However, we would like to mention that the placement of rakes by Railways is round the clock while the tippers are designed for two shifts working and requires regular maintenance everyday. In spite of our best efforts to keep the equipment in working condition the reasons beyond control contribute to detention of the wagons.

It is our experience in the past and present so far with the Railways that because of our various genuine problems as mentioned above for the detention of the wagons. Railway is very kind and sympathetic for consideration of the waiver of the demurrage charges as we are fully aware that the demurrage is not considered as source of income to the Railways, but Railway requires the fast unloading of the wagons so that the cycle can be completed in time for loading of more wagons at the colliery. We are also fully aware about the capacity of the Railways about the coal loading and we also never like to waste the national capacity of the Railways by detention of the wagons at the power station as the amount of demurrage charges is very very meagre in comparison to the freight being paid by the Board to the Railways. Hence, we would request the Railways to consider our proposal for waiver of the demurrage charges for our power stations. In view of the problems mentioned above and to build up harmonious relations with the Railways, we request the Railway to consider our genuine difficulties and come to our rescue whenever required by waiver of demurrage. The waiver of the demurrage charges may not be a major loss to the Railways or major gain to the GEB, but it greatly affects on the harmonious relations between GEB and the Railways.

Thanking you,

Yours Sincerely,

Sd/-

(S.K. NANDA)

To

Shri K.C. Jena,
Divisional Railway Manager,
Western Railway, Division Office,
Pratapnagar, Baroda.

ANNEXURE-IV

Tel. (079) 3217669/70/71/72
Gram : 'SELGRID' Pethapur

Fax : (079) 3217674
E-mail : cegips@yahoo.com

GUJARAT ELECTRICITY BOARD
THERMAL POWER STATION
Gandhinagar - 382041 (Gujarat)

Ref. No. GPS/Coal A/C/Waival Dem./4/02/

Date: 29 July, 2002

To

Divisional Railway Manager,
Western Railway,
Baroda Division,
Pratapnagar,
BARODA: 4

Sub: Appeal against inadequate waiver of D/C accrued on coal rakes at Gandhinagar TPS during the month of March' 2002 i.e. 20/3/2002 to 31/3/2002 and April' 2002 amounting to Rs. 10,315,271/-.

Ref : D.C.M. letter No. C-500/3/2/1 dt. 12/7/02.

Dear Sir,

With ref. to CAM-ADI's letter under reference, demurrage waiver granted 30% is quite inadequate and hence we appeal to your good self to kindly consider following facts and grant 100% waiver and oblige.

It is but an admitted fact that D/C accrued on the coal rakes is due to no default of any shortcoming on part of G.E.B. but ultimate cause of detention and D/C accrued are due to the principal reasons (attributable to Rlys) shown as under:—

I. Rly. Pattern and system of working alongwith non: observing of various directives of Rly. Board as issued from time to time.

(i) Under the system of working, immediately the rake tour the holding line (reception line), it is taken as placed by as a matter of fact the time to be taken should be available for handling since the rakes cannot be released in the reception yard. In terms of Rly. Board directives TC 1/95/201/23/11/95 when the handling lines are far from holding line (Coal handling yard) and rakes are required to be pulled the handling line for release, additional free time

determined on the basis of actual motion studies on to and from train exchange yard (holding lines) to coal yards (handling) which may be given to siding owners. Despite these very clear directives, no extra free time is given. For pulling the train from exchange yard to the handling lines and again placing them back takes 1½ hours which is not being considered by the railway administration.

(ii) Under the process of mechanized unloading, each and every Box Wagon is required to be separated *i.e.* brake vacuum is to be released. This is *sine-Qua-non*. In releasing of brake vacuum of 58 Boxes, a minimum of 12 hour is take. This is also taken by Rly. as part of free time admissible. In short, admissible free time is again curtailed to the extent of 14 hour.

(iii) Many a times, we are asked to perform the miscellaneous shunting like detaching of sick wagons and other like wise work (which is purely the job of Rly.) however to co operate with the Rly. and to have harmonious relations with the Rly. this shunting work is also being done by us, which on an average per rake takes us 1 hour extra.

(iv) In terms of Rly. Board directives TN/87/201/5 of dt. 30/11/87, for unloading a rake of 45 Boxes and more, 10 hours of free time is admissible. It is exclusively for unloading and does not include in it any other function *i.e.* release of vacuum brakes, pulling of the rakes to and fro, from exchange yard to handling lines and any other miscellaneous shunting works.

(v) It would be seen from the position explained in para (i), (ii), (iii), total admissible free time of 10 hour gets curtailed to the extent of 4 hours, by 40 (%). This curtailment of admissible free time is one of the main reasons for detention of rakes, as there remains no adequate time sufficient enough to release the rakes in time. Evaluated in terms of D/C had these free time not been curtailed, 17.18 lakhs D/C would have not been levied to the extent of as explained in Annexure-A. Party. I

II. Placing of rakes in Overlapping & Bunching in quick succession and more number of rakes placed in one single day.

Rly. Bd. *vide* their letter No.TC-I/95/201/2 of 23.11.95 and further clarifications *vide* their even no. of 4/9/96 have explicitly expressed that D/C for the waiting time on the rakes (received in holding lines and handling are occupied by the earlier rakes and are under the process of release and their free time has a yet not expired), may not be levied but it has been observed that Railway staff are not adhering to these directives and are levying the D/C even on the waiting time of the rakes in the holding lines.

You will kindly agree that when rakes are placed in quick succession one after another, admissible free time is almost killed since all the rakes cannot be released within one and the same free time. The position is aggravated when more number of rakes are placed in one single day.

During the month under review (as shown in Annexure-A Part II) as many as 91 rakes out of 127 rakes were placed in overlapping which represent 71.65%. Again out of 91 overlapping rakes as many as 52 rakes representing 57.14% were placed in quick succession of 1 to 4 hours. Things do not end here. As many as 10 occasions more number of rakes were placed in one single day. It is undoubtedly true that more number of rakes are placed in one single day and again placement is in quick succession, more is the detention (having a cumulative effect on second successive rake and so). As explained in Annexure-A Part II there would be no D/C to the extent of 9.55 lakhs had Rly. Board directives (as pointed out) been observed.

- III. It would be not our of context to mention here that as many as 10(Ten) rakes of other sidings were diverted to our siding without our knowledge and consent having an extra burden on us for release of these unwanted rakes. This needs your consideration. Rly. Board in their directives TC1/95/107 of 25/9/96 and 96/TT/TV/58 of 19/9/96 have advised that the diversion of rakes should be drastically reduced.
- IV. Coal being received is of very poor and inferior quality, part containing lot of stones, extraneous materials like iron places etc. which seriously affected our release performances, oversize coal is required to be broken to the prescribed size by manual process. During the month under review lumpy coal and stones was received.
- V. It would be seen from the Annexure-A Part I and Part II, that there would have been no D/C to the extent of Rs.27.33 lakhs *(had admissible free time not been curtailed) as against the D/C 10.31 lakhs accrued during the month under review.
- VI. Despite all these difficulties and hardships faced by us, there were 149 rake saved hours, as against D/C of only 253 hours accrued. In case of SAIL, this time of rake saved hours are adjusted against the detention accrued to other rakes. If any, due to rake saved hours, there is a better turn round of the wagons. This needs your consideration.
- VII. Though the working is round the clock for reckoning of the D/C, but the fact, is that the machinery cannot be kept all the time moving continuously and constantly. For better maintenance and as to have a better output, it is to be kept stationary at regular intervals. This fact will receive your kind attention.
- VIII. G.E.B. is a Semi Govt. body having no profit oriented motive, supplying power to agriculture Sector at cheaper rate. D/C are too high as capacity. We are yielding to Railways more than 1300 crores freight traffic earring and are your permanent/valued customers/patron.

IX. Looking to the above facts and factual situations explained above and cause of detention mainly attributable to Railway and their system of working and to meet with their operational needs, we would implore you to kindly waive off the D/C by cent per cent.

Thanking you,

Encl.: as above with Rly. Board's circular & documents.

Yours faithfully,

Sd/-

CHIEFENGINEER (GEN.)

GT.PS.

C.C. To:

1. The C.G.S. (W.R.) GETS Sdg.
2. The Addl. C.E. (Fuel)-GEB-HO-Vadodara-7
3. M/s. Chirag & Co.
102, Yogidarshan Appartment,
Opp. Nutan Bharat Club, Alkapuri
Vadodara-7
4. The D.E. (C.Y.P.)-GNR-TPS

APPENDIX I

AUDIT PARA 2.3.1

2.3 Demurrage/detention

2.3.1 Western Railway: Injudicious waiver of demurrage charges

Waiver of demurrage charges in violation of the Railway Board's directives resulted in loss of Rs. 41.58 crore and unintended benefit to a middleman.

Demurrage is a charge levied and recovered to compensate loss cause to Railway due to extra time taken by the party loading/unloading of goods resulting in detention to wagons. Discretionary powers have been delegated to officers at various levels for waiver of demurrage charges. Railway Fare and Freight Committee in their Report (December 1993) had recommended that waiver of demurrage should be an exception. It was also observed that routine waiver of demurrage charges, to some extent, conceals elements of favoritism and corruption. The Railway Board has been issuing instructions from time to time to curb the tendency to waive demurrage charges. In March 1995, the Railway Board stipulated that normally more than 25 per cent of the accrued amount should not be waived and reasons for waiver above ten per cent should be recorded.

Gujarat Electricity Board (GEB) receives coal and residual fuel oil in their five sidings at Ukai Songarh, Sevaliya, Dhuvaran, Gandhinagar Capital and Sikka, Audit scrutiny of records of Ukai Songarh in September 1995 revealed that above instructions of the Railway Board were not being followed. Moreover, in almost all cases, waiver was being allowed up to 95 per cent. In reply to an Audited Note of November 1995, the local Railway Administration had stated (February 1998) that all concerned had been advised to follow the Railway Board's directives while considering the request of GEB for waiver of demurrage charges.

Further scrutiny by Audit of all the five sidings of GEB in October 2003 revealed that:—

- Reasons were mentioned in a casual and routine manner against each of the detention cases. They were neither based on facts nor were they valid for allowing waiver. Verification of cases of waiver allowed on grounds of bunching and simultaneous placement of rakes revealed that delivery lines were in fact, available for placement in the sidings. Reasons furnished were, thus, not genuine. The reasons such as round the clock working by the Railway and delay in clearance of consignments by Excise Department were not valid because round the clock working was introduced with the consent of parties and non-clearance of consignments by Excise Department is a matter to be resolved by GEB.

- Waiver of demurrage charges around 55 per cent in 1991-92 abruptly increased to 71 per cent in 1992-93. The increasing trend continued in subsequent years and was 89 per cent in 2001-02. The increase coincided with the appointment of a middleman by GEB (April 1992) for pursuing demurrage cases with the Railway. Remuneration of the middleman was directly linked with the amount of demurrage waived. The jump from 55 per cent to 89 per cent waiver in monetary terms amounted to Rs. 22.50 crore, which could be directly attributed to the involvement of middleman. The unintended beneficiary of the Railways' excessive and unjustified use of discretionary powers of waiver was the middleman who received Rs. 5.15 crore from GEB for his services in effecting a waiver of about Rs. 61.96 crore during this period.
- Directives issued by the Railway Board from time to time have proved ineffective, reflecting a need to strengthen the system through better internal control like obtaining finance concurrence by the authorities before exercising discretionary powers for waiver of demurrage charges. The system of giving only broad reasons for waiver in respect of large sidings where demurrage is waived periodically also requires a review.
- Non-observance of directives issued by the Railway Board in March 1995 for not waiving the demurrage charges by more than 25 per cent resulted in extra waiver of Rs. 41.58 crore in respect of five sidings of GEB along for the period from 1995-96 to 2003-04.

When the matter was brought to the notice of Railway Administration in April 2004 they stated (September 2004) that:—

- The engagement of middleman was an internal issue of GEB and Railway Administration was not aware and can not authenticate the details regarding appointment of middleman and payment of commission thereto.
- The waiver of demurrage charges has been done as per merit of each case keeping in view the instructions issued by Board.

The contention of the Railway Administration is not tenable because:

- While the Railway Administration may not be aware of the exact terms and conditions of engagement of middleman by GEB, they were seized of the matter and had even expressed their views to State Government that it was an unhealthy arrangement prone to promote unethical practices. In view of this there was a great need for Railways to observe strictly the directives of Railway Board regarding waiver of demurrage.
- Audited has pointed out several cases where the waiver was not justified and done in a routine manner far beyond the limits prescribed by Railway Board.

The matter was brought to the notice of Railway Board in September 2004 and their reply has not been received (December 2004).

APPENDIX II

STATEMENT OF OBSERVATIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry/ PSU	Observations and Recommendations
1	2	3	4
1.	62	Railways	Section 2(11) of Railway Act 1989, defines demurrage as the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention. The main objective of levying demurrage charges is to reduce wagon detentions and thereby improve wagon turn round. According to Railways, demurrage charge is a marketing tool used as a leverage to persuade rail users to make investments for improving their handling systems so as to release railway wagons expeditiously. It is not a charge for any service rendered. Waiver of demurrage is essentially a business decision in which the impact of full levy on the consignee's business and liberal waiver on wagon detentions will have to be carefully balanced. Consideration of waiver of demurrage takes into account a host of factors including the extent to which such levies work as disincentives for the particular traffic for choosing rail as the preferred mode of transport.
2.	63	Railways/ GSECL	The Committee note that Gujarat State Electricity Corporation Limited (formerly Gujarat Electricity Board) receives Coal and residual fuel through Railway rakes in their five sidings at Ukai Songarh, Sevaliya, Dhuvaran, Gandhinagar Capital and Sikka, Audit Scrutiny of records of all five sidings of GSECL revealed that waiver of demurrage charges accrued on account of detention of wagons by GSECL which was around 55 per cent in 1991-92 abruptly increased to 71 per cent in 1992-93. The increasing trend continued in subsequent years and reached 89 per cent in 2001-02. The position did not improve even in the subsequent years as the percentage of waiver of demurrage charges continued to range between 70% to 90% in some of the Power Houses of GSECL. The Ministry of Railways have attributed the

1	2	3	4
3.	64	Railways	<p>reason for the rising trend in waiver of demurrage charges to the increase in the traffic volumes at the GSECL sidings. It has also been stated that the cumulative waiver of demurrage charges between 1998-99 to 2003-04 was only 0.43% of total freight earnings of Railways during that period. The Committee are not convinced by the reasons given by the Ministry of Railways for increase in waiver of demurrage charges. Far from giving a plausible explanation therefore and in furnishing the details of the measures taken for reducing the waiver of demurrage charges, the Ministry have tried to find solace in the fact that demurrage charges waived constituted only a small percentage <i>i.e.</i> 0.43% of total freight earnings of Railways, which is nothing but regrettable.</p> <p>The Committee are informed that the Railway Board have been issuing directives from time to time regarding waiver of demurrage charges. One such directive was issued in March 1995 in which the Railway Board had stipulated that not more than 25 per cent of accrued amount should be waived and reasons for waiver above 10 per cent should be recorded. However, Audit review has revealed that non-observance of this directive by Western Railway resulted in extra waiver of Rs. 41.58 crore in respect of five sidings of GSECL alone for the period from 1995-96 to 2003-04. The Ministry of Railways have explained that the Railway Board's directive issued in March 1995 was not a rule as the letter was issued by Advisor (Traffic) who was not authorized to issue any letter on the commercial matters including policy for waiver of demurrage charges according to Railways, only the policy instructions contained in the Board's letter of 23.4.1986 were applicable for waiver of demurrage charges. The Ministry have stated that in terms of para 1102 of Indian Railway Code for Traffic (Commercial), General Managers of the Zonal Railways have full powers to waive demurrage charges irrespective of the amount involved. The Committee are surprised that the Railway Board have not explained the reasons due to which a Senior Officer of the Railway Board issued such a directive <i>suo motu</i> regarding waiver of demurrages, while he was not authorized to do so. The Committee deprecate the casualness with which</p>

1	2	3	4
			<p>such important policy decision was taken by some of the Railways Officers occupying highest position in the policy making body such as Railway Board without knowing its implicaitons. The Committee have not been intimated whether any instructions were issued subsequently by Railway Board barring its Senior Officers from issuing such unauthorised instructions, thereby causing loss to the Railway in the process. The Committee would like to be informed of the steps taken by the Ministry of Railways (Railway Board) in this regard.</p>
4.	65	Railways GSECL	<p>The Committee have been given to understand that the increase in the waiver of demurrage charges in respect of sidings of GSECL during 1991-92 to 2001-02 coincided with the appoitment of a middle man by GSECL in April 1992 for pursing demurrage cases with the Railways, as the remuneration of middle man was directly linked to the amount of demurrage waived. The jump from 55 per cent to 89 per cent in waiver in monetary terms amounting to Rs. 22.50 crore was directly attributed to the involvement of middle man. The unintended beneficiary of the Railways excessive and unjustified use of discretionary powers of waiver was the middle man who received Rs. 5.15 crore from GSECL for his services in affecting of waiver of about Rs. 6169 crore during the period 1991-92 to 2001-02. The Ministry of Railways (Railway Board) have stated that the matter of appointment of middle man by Gujarat State Electricity Corporation Ltd. came to their knowledge in April 2001 informally and they took up the matter with Government of Gujarat in May 2001. In response, the GSECL <i>vide</i> their letter dated 30th August 2001 addressed to Railway Board had categorically stated that they had not appointed any middle man or contractor to get waiver of demurrage charges and they had obtained the services of a consultant only for advising them on Railway matters. At that stage the Ministry of Railways did not find anything wrong in the statement and took the response of GSECL on face value. It was also stated that the fact that GEB had also terminated the services of middle man did not come to their notice at that time. The full details of the case came to their notice only</p>

when Audit furnished the documents from the records of GSECL at the draft Audit stage in April, 2004. It was only at this stage that Railways learnt that remuneration of middle man was linked in percentage terms to the amount realized from the Railways. The Ministry of Railways have further informed the Committee that they did not have any direct dealings with the Consultant appointed by GSECL and that GSECL addressed all representations to Western Railway only and the consultant did not address to the Railways. During the course of examination of the subject, the Committee were informed by GSECL that the consultant was not an employee of GSECL and as such there was no concealment of facts on the part of GSECL. However, the Committee note that it is only after Railways came to know about the engagement of a middle man that GSECL chose to reveal the facts to the Railways. Even in their letter dated 30th August, 2001 addressed to Railway Board through GSECL categorically denied having employed a middle man, however, they did not furnish details regarding engagement of the consultant such as terms and conditions of contract etc. It was thus left to the Audit to reveal that GSECL had engaged a consultant for waiver of demurrage charges and the remuneration to the consultant is directly linked to the extent of waiver of demurrage. When the matter came to the notice of Railways and consequent upon investigation by ACB, Gujarat the contract with the consultant was terminated by GSECL in December 2002.

Though the Committee appreciate the difficulties faced by the GSECL in the calculation of demurrage charges for which consultant has been engaged, nevertheless the fact remains why such a decision was not disclosed to the Railways. By not doing so GSECL had tried to hide the facts about the engagement of consultant, thereby giving an inescapable impression that there was something fishy in the whole affair. This has given rise to the suspicion in the mind of the Committee that by appointing a Railway contractor as consultant who was given substantial fee (Rs. 5.15 crore) in this case ultimately resulted a loss to the Railways Revenue. Given the fact that the rules and regulations and various

1	2	3	4
5.	66	Railways GSECL	<p>procedures governing Railway tariff including the Railway act are quite elaborate and complex in nature, the Committee are of the view that there is no harm in engagement of consultant by GSECL for effective representation and resolution of disputes that may arise with the Railways. Nevertheless GSECL ought to have ensured that the consultant which it had engaged did not act as a middle man and cause loss of the Railways Revenue.</p> <p>The Committee note that a complaint regarding injudicious waiver of demurrage charges in respect of M/s. GSECL was investigated by Vigilance Directorate of Railway Board. The investigation report was considered and the case was referred to Central Vigilance Commission for advice with Board's recommendation of closure of the case. However, the CVC <i>vide</i> their advice dated 5.11.2004 recommended that Board vigilance may constitute a Committee of three officers, which may go through the cases of abnormally high refunds allowed to GSECL and decide whether the decisions were prudent or not. The Committee of three Officers appointed by Railway Board in their Report have observed that in the cases covered, it was found that the trend of waiver had been generally similar by the various authorities at different levels and in different Divisions. However, the denial of additional free time for pulling and pushing of rakes from exchange yard etc. has resulted in avoidable and artificial enhancement of the demurrage bills to the obvious disadvantage of the powerhouses. The appropriate course of action, therefore, would be to conduct time and motion studies and prepare the bill taking into account the additional free time admissible to the powerhouses. The case was examined by the Railway Board and sent to CVC with the recommendation of closure of the case. In their advice to Railway Board dated 26th May, 2005 the CVC had recommended for fixing accountability on the concerned officials for not following Board's instructions in the matter of calculating free time and allowing the racket to go on.</p> <p>The Railway Board while referring the case back to CVC had observed that there is no vigilance angle in this</p>

matter and it is at best a case of procedural lapse, which may have been occasioned due to the process of conducting time & motion studies being very time consuming. However, the CVC in their further advice dated 5.9.05 while commenting that the Committee constituted by Railway Board had evidently wanted discretion to continue in waiver of demurrage charges, when even the Supreme Court wants discretion of the Government to be circumscribed by clear guidelines *viz.* petrol pump case, reiterated its previous advice asking Railways to consider framing guidelines on the range of demurrage which could be allowed in various circumstances and to fix the responsibility of the concerned officials. In their reply to CVC, Railway Board stated that it had not been possible to lay down yardsticks for waiver of demurrage in terms of a clear range of percentages for each circumstance due to the complex nature of operations at the field level which cannot be comprehensively enumerated. While attempts have been made to account for a wide range of circumstances in order to facilitate judicious waiver decisions, yet there are innumerable varieties of local conditions that cannot even be visualized by a central policy-maker. It is here that some discretion has to be permitted to functionaries at the cutting edge. While some degree of discretion is inescapable and, indeed imperative, the germane point is that this discretion has been circumscribed by concentrating waiver powers mostly at higher, more responsible levels. The views of Railway Board were communicated to CVC on 17.3.06, upon which the Commission had made the following observations:—

- "1. The Committee constituted by Railway Board has concluded that it was difficult to comment whether abnormally high refunds were prudent or not. This is not convincing.
 2. Railway Board has intimated that it has not been possible to lay down yardsticks for waiver in terms of clear range of percentage due to complex nature of operation. Further, power of waiver has been curtailed particularly at lower level and
-

discretion has been concentrated mostly at higher levels. However, it has been observed that directions have been exercised arbitrarily in this case because in similar cases, waiver in respect of Sevalia, Gandhi Nagar and Ukai Power Plants have been much higher as compared to Sikka Power Plant.

3. Railway Board has not intimated as to whether any action has been taken to fix the responsibility on officials. They may do so now.

in view of the above the commission also decided to include this cases in its annual Report for the year 2006."

The matter was again examined by Board (MT), who observed that since local conditions vary considerably across regions and time, no two cases are identical and hence it is not feasible to compare cases of waiver of one power plant with another. In the case of GSECL, it needs to be borne in mind that the amount of waiver of demurrage was less than 1 per cent of the freight paid by this concern. In view of this no irregularity had been committed in this case and, hence, no action was warranted against any official. The Committee were informed by the Ministry of Railways that in view above, this case is being treated as closed in the Railway Board's office and CVC has been advised accordingly.

From the foregoing, it is evident that Railway Board has adopted an intransigent and inflexible approach towards the issue of waiver of demurrage charges and had justified vesting of discretionary powers with the higher level of Officials for waiver of demurrage charges from the Railways business point of view. The Committee having considered the facts of the case recommend that Railways may consider the feasibility of appointing an expert Committee comprising experts drawn from the fields of transport sector, Railway users/utilities associations and apex organizations of industrial houses etc. to go into the entire gamut of the mechanism of accrual and waiver of demurrage charges and to suggest measures for circumscribing and curtailing the discretionary powers vested with the Railway Officials to the extent possible.

1	2	3	4
			<p>In the light of observations made by the Central Vigilance Commission in the matter of waiver of demurrage charges in respect of GSECL, the Committee also recommend that the Expert Committee may also examine and report on the following issues:</p> <ul style="list-style-type: none"> (i) To conduct fresh time and Motion studies taking into account the additional free-time admissible to the power houses for shunting operations etc. (ii) Framing of guidelines on the range of waiver of demurrage which could be allowed in various circumstances.
6.	67.	Railways	<p>The Committee note that under the extant instructions issued by Railway Board in respect of large sidings like those of power houses it is not necessary to record speaking orders in respect of each and every consignment or a wagon and it would be sufficient if broad reasons are given in support of such periodical waivers. The Committee are of the view that the system of giving broad reasons instead of recording speaking orders with regard to waiver of demurrage charges in respect of power houses, conceals elements of nepotism, favouritism and corruption. They therefore, recommend that the present system should be totally done away with. The Committee recommend that Railways should consider the feasibility of framing guidelines for waiver of demurrage charges in respect of power houses, whereunder specific reasons for waiver should be recorded in writing while exercising the discretionary powers of waiver of demurrage charges.</p>

PART II

MINUTES OF THE SIXTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2005-2006) HELD ON 14th JULY, 2005

The Committee sat from 1700 to 1800 hours on 14th July, 2005 in Room '139', First Floor, Parliament House Annexe, New Delhi.

PRESENT

Prof. Vijay Kumar Malhotra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Ramesh Bais
3. Shri Magunta Sreenivasulu Reddy
4. Shri Madan Lal Sharma
5. Shri Brij Bhushan Sharan Singh
6. Dr. Ramlakhan Singh
7. Shri Tarit Baran Topdar

Rajya Sabha

8. Shri Prasanta Chatterjee
9. Dr. K. Malaisamy
10. Shri V. Narayanasamy
11. Shri C. Ramachandraiah
12. Prof. R.B.S. Verma

SECRETARIAT

1. Shri Ashok Sarin — *Director*
2. Smt. Anita B. Panda — *Under Secretary*

Representatives of the Office of the Comptroller and Auditor General of India

1. Shri Kanwal Nath — DAI (Railways)
2. Smt. Anjali Anand Srivastava — Principal Director (Railways)

Representatives of the Ministry of Railways

1. Ms. Vijayalakshmi Viswanathan — Financial Commissioner (Rlys)
& Ex-officio Secretary
2. Shri R.N. Aga — Member, Traffic
& Ex-Officio Secretary
3. Shri R. Ashok — Adviser/Finance

2. At the outset, the Chairman, PAC welcomed the Members and Audit Officers. The Chairman informed the Members that the sitting has been convened to take oral evidence of the representatives of the Ministry of Railways on Paragraph 2.3.1 of the Report of C&AG of India (No. 8 of 2005) on "Injudicious Waiver of Demurrage Charges".

3. Thereafter, the officers of the C&AG of India briefed the Committee on the specific points arising out of the aforesaid Audit Paragraph. The representatives of the Ministry of Railways were then called. The Committee then commenced the oral evidence. As the officials of the Ministry of Railways could not give satisfactory replies to certain points raised by the Members during the evidence, the Committee decided to hold another sitting on a subsequent date on the subject.

4. A copy of the verbatim proceedings of the sitting has been kept on record.

The Committee then adjourned.

MINUTES OF THE EIGHTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE
(2005-2006) HELD ON 1st SEPTEMBER, 2005

The Committee sat from 1600 to 1713 hours on 1st September, 2005 in Committee Room, 'B' Parliament House Annexe, New Delhi.

PRESENT

Prof. Vijay Kumar Malhotra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Ramesh Bais
3. Dr. M. Jagannath
4. Shri R.L. Jalappa
5. Dr. R. Senthil
6. Shri Brij Bhushan Sharan Singh
7. Dr. Ramlakhan Singh
8. Shri Tarit Baran Topdar

Rajya Sabha

9. Shri Prasanta Chatterjee
10. Shri R.K. Dhawan
11. Shri Jairam Ramesh
12. Prof. R.B.S. Verma

SECRETARIAT

1. Shri Ashok Sarin — *Director*
2. Smt. Anita B. Panda — *Under Secretary*
3. Shri M.K. Madhusudhan — *Under Secretary*

Representatives of the Office of the Comptroller and Auditor General of India

1. Shri Kanwal Nath — DAI (Railways)
2. Smt. Anjali Anand Srivastava — Principal Director (Railways)

Representatives of the Ministry of Railways (Railway Board)

1. Shri J.P. Batra — Chairman, Railway Board &
Ex-officio Principal Secretary
2. Ms. Vijayalakshmi Viswanathan — Financial Commissioner (Rlys) &
Ex-officio Secretary

Gujarat Urja Vikas Nigam Ltd. (GUVNL)

1. Smt. V.L. Joshi — Chairman, GUVNL
2. Shri B.R. Mali — I/c CE (Fuel), GSECL

2. At the outset, the Chairman welcomed the Members and the Officers of the Office of C&AG of India. The Officers from the Office of C&AG of India briefed the Committee on specific points arising out of the Audit Paragraph 2.3.1 of the Report of C&AG of India (No. 8 of 2005) on "Injudicious Waiver of Demurrage Charges". Thereafter, the representatives of the Ministry of Railways (Railway Board) and Gujarat Urja Vikas Nigam Limited (erstwhile Gujarat Electricity Board) were called in and the Committee resumed the oral evidence on the aforesaid para which had remained inconclusive on 14th July 2005. The Chairman, Railway Board and the Chairman, Gujarat Urja Vikas Nigam Limited (GUVNL) responded to the various points and queries raised by the Members. To certain queries, for which the witnesses could not give satisfactory reply, the Hon'ble Chairman directed that Ministry of Railways (Railway Board) and Gujarat Urja Vikas Nigam Limited might furnish the requisite information in writing at the earliest.

3. The Committee then decided to undertake a Study Tour to Vishakhapatnam, Hyderabad and Kolkata during the third week of September 2005 subject to the approval of the Hon'ble Speaker.

4. A copy of the verbatim proceedings of the sitting has been kept on record.

The Committee then adjourned.

MINUTES OF THE FOURTEENTH SITTING OF THE PUBLIC ACCOUNTS
COMMITTEE (2006-2007) HELD ON 31st OCTOBER, 2006

The Committee sat from 1100 to 1245 hours on 31st October, 2006 in Committee Room 'A', Parliament House Annexe, New Delhi.

PRESENT

Prof. Vijay Kumar Malhotra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Khagen Das
3. Shri P.S. Gadhavi
4. Shri R.L. Jalappa
5. Shri Bhartruhari Mahtab
6. Shri Brajesh Pathak
7. Prof. M. Ramadass
8. Shri Kharabela Swain
9. Shri K.V. Thangkabalu
10. Shri Tarit Baran Topdar

Rajya Sabha

11. Shri Janardhana Poojary
12. Shri Suresh Bhardwaj
13. Shri Prasanta Chatterjee
14. Dr. K. Malaisamy
15. Shri Ravula Chandra Sekar Reddy

SECRETARIAT

1. Shri A.K. Mukhopadhyay — *Joint Secretary*
2. Shri Ashok Sarin — *Director*
3. Shri M.K. Madhusudhan — *Under Secretary*
4. Shri R.K. Suryanarayanan — *Assistant Director*

Officers of the Office of C&AG of India

1. Shri Kanwal Nath — DAI
2. Ms. Subhashini Srinivasan — Principal Director (Railways)

Representatives of the Ministry of Railways (Railway Board)

***** ***** ***** *****

2. At the outset, the Chairman, welcomed the Members of the Committee to the sitting. Thereafter, the Committee took up for consideration and adoption of the following draft Reports:—

- (i) Draft Report relating to "Injudicious Waiver of Demurrage Charges" (Railways).
- (ii) Draft Report relating to "Delayed purchase and insignificant utilization of equipment procured under Fast Track Procedure" (Defence).
- (iii) Draft Report on Action Taken on 12th Report of PAC (14th Lok Sabha) relating to "Allotment of Land to Private Hospitals and Dispensaries by DDA".

After some deliberations, the Committee adopted these draft Reports without any amendments/modifications and authorized the Chairman to finalise and present the same to Parliament in the light of factual verification done by Audit and the security clearance received from the Ministry of Defence in respect of Report on Fast Track Procedure.

3. ***** ***** ***** ***** *****
4. ***** ***** ***** ***** *****
5. ***** ***** ***** ***** *****

The Committee then adjourned.