

THIRTEENTH REPORT

COMMITTEE ON PUBLIC UNDERTAKINGS

(2005-2006)

(FOURTEENTH LOK SABHA)

**AIRPORTS AUTHORITY OF INDIA- LOSS OF REVENUE DUE TO
DELAY IN AWARD OF LICENCES TO OPERATE MONEY EXCHANGE
COUNTERS**

MINISTRY OF CIVIL AVIATION

(Action Taken by the Government on the recommendations contained in the Eighth Report of the Committee on Public Undertakings (14th Lok Sabha) on – Airports Authority of India – Loss of Revenue due to delay in award of Licences to Operate Money Exchange Counters)



**Presented to Lok Sabha on 21.3.2006
Laid in Rajya Sabha on 21.3.2006**

**LOK SABHA SECRETARIAT
NEW DELHI**

March 2006 / Phalguna 1927 (S)

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COMPOSITION OF COMMITTEE ON PUBLIC UNDERTAKINGS
(2005 – 2006)

CHAIRMAN

Shri Rupchand Pal

MEMBERS, LOK SABHA

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3. Shri Gurudas Dasgupta
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14. Shri Parasnath Yadav
15. Shri Ram Kripal Yadav

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16. Prof. Ram Deo Bhandary
17. Shri Ajay Maroo
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19. Shri Chandran Pillai
20. Shri Shahid Siddiqui
21. Vacant
22. Shri Dinesh Trivedi

SECRETARIAT

- | | | |
|----|--------------------|-------------------|
| 1. | Shri John Joseph | Secretary |
| 2. | Shri S Bal Shekar | Joint Secretary |
| 3. | Shri N.C.Gupta | Under Secretary |
| 4. | Shri Ajay Kumar | Under Secretary |
| 5. | Shri H.Ram Prakash | Committee Officer |

INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorized by the Committee to submit the Report on their behalf, present this Thirteenth Report on Action Taken by the Government on the recommendations contained in the Eighth Report of the Committee on Public Undertakings (Fourteenth Lok Sabha) on Airports Authority of India – Loss of Revenue due to Delay in Award of Licences to Operate Money Exchange Counters.

2. The Eighth Report of the Committee on Public Undertakings (2005-2006) was presented to Lok Sabha on 25th August, 2005. Action Taken Replies of the Government to the recommendations contained in the Report were received on 28th February, 2006. The Committee on Public Undertakings considered and adopted this Report at their sittings held on 20.3.2006. The Minutes of the sitting are given in Appendix – I.

3. An analysis of the action taken by the Government on the recommendations contained in the Eighth Report (2005-06) of the Committee is given in Appendix -II

**New Delhi:
20 March, 2006
29 Phalgun 1927(S)**

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

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by the Government on the recommendations contained in the Eighth Report (Fourteenth Lok Sabha) of the Committee on Public Undertakings (2005-2006) on "Airport Authority of India – Loss of Revenue due to delay in award of Licences to Operate Money Exchange Counters which was Presented to Lok Sabha on 25th August 2005.

2. Action Taken notes have been received from Government in respect of all the 6 recommendations contained in the Report. These have been categorized as follows :

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

Sl. Nos. I, III, IV, V and VI (Total 5)

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

NIL (Total NIL)

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

Sl. No. II (Total 1)

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

Sl.No. NIL (NIL)

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

Recommendation Serial No.2

Modification of eligibility conditions

4. The Committee have been apprised by AAI that of the three eligibility conditions, the condition prescribing gross turnover of Rs. 50 crore has been borrowed from State Bank of India, whereas the condition prescribing 5 years experience in the money exchange business and having 15 branches in India and abroad were based on inputs from Indian Railways. These conditions in general and the condition of 15 branches in India and abroad in particular, proved to be so harsh that most of the Indian firms got precluded from tendering. As a result, there was very poor response to the tenders, virtually leading to a monopolistic situation for a few firms who were able to grab most of money exchange counters (MECs) at major International airports. The glaring instance of such a monopolistic situation can be seen from the fact that at IGI Airport, Delhi, 14 out of 15 MECs got allotted to M/s Thomas Cook, while in Chennai, all the counters went to M/s T. T. Travels and in Kolkata all the MECs went to M/s Thomas Cook. Aggrieved by the stipulation of the condition of having 15 branches in India and abroad, some firms approached various high courts immediately after the Notice Inviting Tenders were issued, between August 1999 to October 1999. In October 1999, some High Courts termed these eligibility conditions as highly irrational, unrealistic and discriminatory. But the Airports Authority, after a lapse of 2 years, in September 2001, modified the eligibility conditions from '15 branches in India and abroad' to '15 branches in India and / or abroad'. After the modification, these firms got all the cases withdrawn / closed.

5. Keeping in view all the facts mentioned above, the Committee are of the view that the AAI should have promptly acted soon after the observation of Mumbai High Court in October 1999 was received, without waiting for another 2 years to amend the eligibility conditions. By doing so, the Committee believe that the revenue losses could have certainly been minimized. The Committee recommend that responsibility should be fixed for the revenue loss and suitable action be taken in the matters.

6. This instance clearly reveals that the decision-making mechanism in AAI requires a serious review and the Committee recommend that a review in this regard should be carried out so that quick decisions are made in future in all matters having revenue implications.

Reply of Airports Authority of India

7. The Single Bench of Mumbai High Court in October 1999 while granting stay on the Writ Petition filed by the Petitioners, desired AAI to improve upon the wordings taken while framing the specifications so that they are not irrational, arbitrary and discriminatory. However, since cases filed on similar issues at

Chennai Airport were dismissed in favour of AAI by a Division Bench of Madras High Court and there was no restraint in going ahead in processing the tender at IGIA, by Delhi High Court. AAI at that stage felt that the case would be disposed off in its favour and were regularly following up the matter in the Mumbai High Court.

8. However, the recommendations of the Committee has been noted and internal monitoring mechanism is being set up specially involving legal matters so that fast track action can be taken in cutting down the time factor involved in the litigation process.

9. All the concerned departments are being advised to be more prompt in monitoring and taking timely action adhering to the time frame laid down in the Commercial Manual for avoiding such losses in future.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

10. The AAI has noted recommendations of the Committee for future compliance. A copy of the instructions issued to all the departments of AAI in this regard has been called for from the Authority, which is awaited.

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

11. A copy of the instructions dated 9.12.2005 advising the airports to be more prompt in monitoring and taking timely action adhering to the time frame laid down in the Commercial Manual to avoid revenue loss in future is enclosed (Annexure-I).

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated the 21st February, 2006]

Comments of the Committee

12 The Committee observe that AAI had put up harsh conditions due to which most of Indian firms got precluded from tendering. This virtually led to a monopolistic situation for a few firms who were able to grab most of Money Exchange Counters (MECs) at major international airports. Therefore, the Committee on Public Undertakings in their original report

had recommended that responsibility should be fixed for the revenue losses and appropriate suitable action in the matter be taken . The Committee had also recommended for a review of the decision making mechanism in AAI so as to facilitate taking quick decisions in all matters having revenue implications. The Committee highly deprecate the vague and inadequate reply of Ministry of Civil Aviation and AAI which *inter alia* state that internal monitoring mechanism is being set up involving legal matters so that fast track action can be taken in cutting down the time factor involved in the litigation. The Committee express their displeasure that even after a lapse of more than six months, the Ministry of Civil Aviation / AAI have not taken any concrete steps for putting in place an internal monitoring mechanism. The Committee desire that AAI should set up the internal review mechanism within a specific time frame of two months and review and dispose of all the cases having revenue implications with due promptitude.

The Committee further express their dismay that the reply of the Ministry of Civil Aviation and AAI is silent on their recommendation regarding fixing of responsibility for the revenue loss which tantamounts to inaction. The Committee take a serious note of the lackadaisical manner in which recommendation of the Committee has been dealt with by Ministry of Civil Aviation and AAI and reiterate their recommendation for fixing of responsibility in the instant case. The Committee would like to be apprised of the specific action taken in the matter within a period of three months.

CHAPTER –II**RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT .****Recommendation Sl. No. I****Tendering for Money Exchange Counters at the Airports.**

The Committee note that prior to 1999, money exchange counters at some international airports were being operated by Public Sector Banks mainly the State Bank of India and some of its subsidiaries alongwith few other private agencies as per the directives issued by the Ministry of Civil Aviation and the Ministry of Finance. The space for running the counters was allotted by the AAI on rental basis. After liberalization of the economic policies by the Government, many other agencies were permitted by the RBI to carry on the money exchange business. As a result, many such parties started approaching AAI for setting up money exchange counters at various international as well as domestic airports. In view of this and also to enhance the non- traffic revenue, the matter was considered in the Board's meeting of AAI which accorded in principle approval for inviting open tenders from reputed authorized money exchange agencies, nationalized banks and foreign banks for setting up of money exchange counters at various airports. AAI decided to float tenders to award licenses to operate money exchange counters on the basis of royalty on the gross turnover of these counters in addition to the fixed monthly rentals. Since the AAI was floating this kind of tender for the first time, it was thought appropriate by them to contact certain agencies doing this kind of business in order to fix the eligibility criteria for the tenders. Accordingly, AAI approached Railway Authorities who were also inviting tenders for money exchange business and the State Bank of India who were already operating money exchange counters at all the international airports. Based on the inputs received from these two agencies, the AAI fixed the eligibility conditions for the tenders. However, the eligibility conditions so framed proved too harsh, as these had the effect of precluding most of the Indian firms from participation in the tender process, which subsequently led to litigation in various courts and resulted in delay in award of licenses and consequential revenue losses etc.

The Committee, feel that it was not proper on the part of AAI to approach only two agencies for taking consultation in setting out the eligibility conditions, particularly when there were many other Public Sector Banks and private agencies doing money exchange business. The Committee, therefore, are of the view that such agencies should also have been consulted for enabling the AAI for setting out realistic and reasonable conditions. Had that been the case, such a situation would not have arisen, where a very few parties alone were able to

qualify for bidding their tenders, besides having an adverse impact on the concept of competitiveness. The Committee recommends that while undertaking such activities in future, the AAI, following prudent commercial practices, should undertake wider consultations, while framing eligibility conditions so that there is optimum participation and healthy competition.

Reply of Airports Authority of India

The specifications were framed based on the broad parameters outlined in the in principal approval accorded by the AAI Board for calling the tenders of Money Exchange Counters at various airports.

The recommendations of the Committee for following prudent commercial practices and framing eligibility condition after wider consultations for healthy competition is noted for compliance. In this connection, we would also like to submit that the criteria and experience details incorporated in the Commercial Manual of the AAI in vogue has been prepared after taking into account the views of all the concerned departments/regions/Airport Directors and since August 2003, after getting duly approved by the AAI Board.

Further it has also been decided by the AAI Board that any further amendment in the Commercial Manual is to be brought to the AAI Board with the recommendations of the Commercial Advisory Board for approval.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

The AAI has noted the recommendations of the Committee for future compliance. The compliance in this regard will be watched during the further phase audits.

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

Keeping in view of the vetting remarks of the Audit, no further comments are required at this stage.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated the 21st February, 2006]

Recommendation Serial No.3

Guidance of AAI Board in all important matters

Although the AAI Board had accorded in principle approval for inviting tenders from reputed money exchange agencies, unfortunately the Board was at no point of time apprised of the litigation cases in various High Courts against the eligibility conditions. It is true that the Commercial Advisory Board (CAB) headed by Chairman, AAI was competent to take decisions in commercial matters. But the Committee feel that such sensitive issues should have been placed before the Board and also the Ministry for their guidance.

The Committee therefore, recommend that the AAI should immediately lay down suitable guidelines in their Commercial Manual providing for seeking Board's directions in such crucial matters.

Reply of Airports Authority of India

The recommendations of the Committee has been noted and action is in hand to set up an effective internal monitoring mechanism, by which important matters involving time delay due to litigation process or otherwise would be suitably identified analyzed and put up to the Commercial Advisory Board which after review, would submit to the AAI Board/Ministry seeking their guidance/directions in crucial matters.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

AAI has noted the recommendations of the Committee. It has further stated that an effective internal monitoring mechanism is being set up to analyse the time delay in important matters which are due to legal process etc. The effectiveness of above mechanism would be studied in the future phase of audits.

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

Keeping in view the vetting remarks of audit, no further comments are required at this stage.

[Ministry of Civil Aviation O.M. G.25012/10/2005-AAI Dated the 21st February, 2006]

Recommendation Serial No.4

Need for proper handling of the litigations

The Committee note that in view of the stringent eligibility conditions, many Indian firms got straightaway precluded from tendering for the Money Exchange Counters. Such aggrieved parties challenged the eligibility conditions in various High Courts at Mumbai, Kolkata, Bangalore, Chennai, Delhi, Hyderabad and Thiruvanthapuram during August 1999 to October, 1999. While the Mumbai High Court and Kolkata High Court granted stay on tender proceedings, the other High Courts, though not issuing any stay orders, ordered that the award of licences was subjected to the result of petitions filed before them. Further, while admitting the petitions in October, 1999, the Mumbai High Court observed that the eligibility conditions were totally irrational, unreasonable and illegal. Similarly, the Kerala High Court, while setting aside the eligibility conditions in August, 2001, stated that the Notice Inviting Tender (NIT) was unreasonable, arbitrary and discriminatory. On the contrary, the Madras High Court dismissed the petition on the ground that the court cannot interfere with the jurisdiction of AAI in fixing the terms and conditions of the tender and as such it was not open to judicial scrutiny. The observation of the Delhi High Court was that though the eligibility conditions did not suffer any arbitrariness or irrationality, the same would have been happily worded and made more precise. The Committee further note that it was only in the year 2001 that the Airports Authority of India, for the sake of resolving the pending litigation proceedings, made required modifications in the eligibility conditions which ultimately resulted in withdrawal / closure of the court cases.

Keeping in view the fact that a large number of cases were filed in different High Courts of the country by various firms against the eligibility conditions and different types of observations were being given on these petitions, the Committee feel that the Authority had failed to effectively handle the situation due to lack of sound legal counseling. In the opinion of the Committee, the most prudent course for the Authority under such circumstances was to

approach the Supreme Court for collective hearing on all these matters. The Secretary, MOCA as well as representatives of AAI during evidence before the Committee also subscribed to this view point. Unfortunately, the Authority did not pursue this course of action, as no such advice was given by their legal counsel. The Committee are not at all happy with such an inept handling of the litigations and therefore strongly recommend that AAI, should strengthen their legal machinery for handling such type of situations in future more effectively.

Reply of Airports Authority of India

In the matter of tender for the money exchange counters various parties challenged the eligibility criteria before the various High Courts. First hearing was held in Chennai for two Writ Petitions and the Division Bench of the Chennai High Court dismissed the petitions by detailed judgment on 6th October, 1999 holding that Court cannot interfere with the jurisdiction of respondents in fixing the terms and conditions and the same is not open to judicial scrutiny. Similarly, two writ petitions were also filed before the Kolkata and Delhi High Courts but no stay granted. However, the Delhi High Court ordered that the award of Licence would be subject to the result of petition pending before the Court. In the matter of Bombay High Court, however, an interim order was passed on 20th October, 1999 wherein Hon'ble Court found a clause of the tender conditions as irrational and unreasonable and hence an interim stay was granted. On the basis of this interim order Kerala High Court also passed similar order holding one condition of the contract as violative of article 14 to the Constitution. The Law Department of AAI is having 5 (five) regions (North, South, East, West and North Eastern Region) with 19 Officers managing cases all over the country. The cases are contested by the Law Department in coordination with the concerned departments. Keeping in view the varied observations and the order passed by the various High Courts in the Country, the Competent Authority at Corporate Hqrs. had decided to modify the conditions of the contract for resolving the problems and accordingly, a modification proposal was filed before the Bombay High Court which was accepted by the Court and opposite party withdrew the petition.

The recommendations of the Committee have been noted and an internal monitoring mechanism is being created for monitoring all the cases for taking prompt action for avoiding delay culminating into the loss of revenue of the Authority.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

The AAI has noted the recommendations of the Committee. The details of internal monitoring mechanism created for monitoring the cusses for taking prompt action has been called for from the Authority, which is awaited. The effectiveness of the mechanism would be studied in the future phase audits.

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

The Legal Department of AAI has taken note of the recommendations of the Committee for setting up Special Action Group for monitoring all the cases to avoid delay culminating in loss of revenue to Authority.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated the 21st February, 2006]

Recommendation Serial No.5

Delay in award of licences resulting in revenue loss.

The Committee note that the Authority issued instructions to various domestic / international airports in July, 1999 to float open tenders for award of licenses. Although the airports were advised to make all out efforts for inviting, processing and finalizing the facility expeditiously, no time -frame within which the entire process was to be completed had been prescribed. In this regard, the Committee observe that on account of litigations in various High Courts, delays ranging from 30 to 34 months in the case of Mumbai and Kolkata airports, 6 to 37 months in the case of Bangalore, Chennai, Delhi & Hyderabad airports and delay of 25 months in the case of Thiruvanthapuram airport, took place in awarding of licenses. Further, in the absence of any prescribed time-frame, the airports at Ahmedabad, Amritsar, Goa and Jaipur did not follow the instructions at all and as a result, the award of licenses delayed which ranged between 18 and 44 months. According to the Audit, these delays have resulted in a loss of revenue of Rs. 18.11 crore to the Authority on account of royalty and the license fee.

The Committee further note that according to AAI, the delay in awarding the licences had occurred mainly on account of petitions filed in different courts challenging the eligibility conditions. The other reasons include, reference made to CVO/CVC in respect of awarding contracts at Delhi & Chennai airport, declaration of few airports as International only from 23.6.2000 and consequential revision of space license fee, delay in vacation of counters by State Bank of India at few airports; and repeated tender attempts due to technical deficiencies etc. The Committee are not convinced by the reasoning put-forth by the Authority because the Authority itself is to be blamed for their inept handling of the litigations. The Committee find the other reasons as petty in nature that could have been taken care of if proper planning, coordination and follow -up was done by the AAI Headquarters.

The Committee strongly feel that appropriate legal consultations and carrying out of expeditious modifications in the eligibility conditions soon after the observation of the Mumbai High Court in October, 1999 would have definitely avoided loss of revenue to the Authority.

Another factor in the opinion of the Committee which has been attributed to the delay in awarding of tenders was that no time-frame was prescribed for completion of the whole process. In the absence of the said parameter, many airports did not follow the tendering instructions at all. The Committee find such approach highly casual and irregular keeping in view the fact that as per the Commercial Manual of the Authority, the tender instructions should clearly stipulate the time-frame for completion of the whole process. The Committee are dismayed to note that the Authority did not view the delay in awarding the licences as a revenue loss proposition. The Committee believe that had the Authority acted as a truly professional organization in promptly addressing the causes of delay, the revenue loss could have certainly been minimized. The Committee, therefore, recommend that in future, the procedure laid down in the Commercial Manual should be strictly adhered to so as to avoid recurrence of such lapses in future.

Reply of Airports Authority of India

The observations of the Committee are noted and instructions will be issued to the Airport Directors/Regional Airport Directors at the various airports to adhere to the time schedule prescribed in the Commercial Manual for avoiding such recurrence in future.

Further, an internal monitoring mechanism would be set up, for effectively monitoring and reducing/minimizing the time delays in processing tenders.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

The AAI has noted the recommendations of the committee. The instructions issued to the Airport Directors/Regional Airport directors have been called for from the Authority, which is awaited. After the receipt of the details, the same would be studied in further transaction audits.

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

A copy of the instructions issued by Airports authority of India to the Airports Directors/Regional Executive Directors vide letter dated 9.12.2005 as referred to at Point no. 2 of reply is enclosed as Annexure-I..

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated the 21st February, 2006]

Recommendation Serial No.6

Need for strengthening the Monitoring Mechanism of the Ministry

The Committee are surprised to note that the Ministry came to know about the legal proceedings against the AAI in various High Courts relating to eligibility conditions set out in the tender for setting up Money Exchange Counters only through the draft audit paras from the C&AG.

The Ministry has stated that their representatives are the Members of AAI Board. Since the Commercial Advisory Board (CAB) of AAI who is competent to take decision with regard to commercial practices did not bring this issue to AAI Board, the Ministry's representatives or the Ministry were not aware of the litigations faced by AAI. This explanation is not acceptable to the Committee as the senior officers of the Ministry who deal with AAI, are completely accountable for the performance of AAI. Another important point which has come to the notice of the Committee is that on perusal of item No. 13 of AAI Commercial Manual of 1993 which was in vogue till 2001, it has been noted that Money Exchange Counters were also to be allotted as per directives issued by the Ministry of Civil Aviation from time to time. In view of this, the Ministry cannot be absolved of its responsibilities in regard to the controversies generated during the said allotment of Money Exchange Counters (MECs). This shows that there was poor coordination and lack of supervision of the Ministry over the AAI. The Committee, therefore, recommend that Ministry of Civil Aviation should strengthen its monitoring mechanism and conduct periodical reviews of the PSUs and provide suitable guidance to them.

Reply of Ministry of Civil Aviation:

Ministry reviews important projects of AAI periodically. Besides, the projects are also reviewed as part of Budget exercise and also thorough periodic review of Five Year Plan projects. Wherever slippages, if any, are observed, necessary instructions are given to AAI from time to time. Review is also done as a part of monitoring of MOU signed between AAI and Government of India. Besides, two officers of the Ministry, being on the Board of Directors of AAI, also

oversee the performance of AAI and take decisions with regard to various functions of the Authority on the basis of policies of the Government. The progress of projects undertaken by AAI are reviewed and monitored on periodic intervals in the Board of the Authority. However, Airports Authority of India has also been advised to keep the Ministry informed of important policy matters/projects including commercial and legal matters etc. where coordination, guidance etc of the Ministry is needed.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

As per the observations of the Committee there was poor coordination and lack of supervision of the Ministry over the AAI. A copy of the instructions issued in this regard has been called for from the Authority, which is awaited. Till such time the copy of instruction is handed over to audit, the para may remain unsettled.

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

Airports Authority of India has already been instructed to keep the Ministry informed of all important policy matters/projects including commercial and legal matters etc. where coordination, guidance of the Ministry is needed vide this Ministry's letter No. G.25012/10/2005-AAI dated 27th October, 2005 is enclosed as Annexure-II.

[Ministry of Civil Aviation O.M. Dated the 21st February, 2006]

CHAPTER III

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

NIL

CHAPTER IV

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

Recommendation Serial No.2

Modification of eligibility conditions

The Committee have been apprised by AAI that of the three eligibility conditions, the condition prescribing gross turnover of Rs. 50 crore has been borrowed from State Bank of India, whereas the condition prescribing 5 years experience in the money exchange business and having 15 branches in India and abroad were based on inputs from Indian Railways. These conditions in general and the condition of 15 branches in India and abroad in particular, proved to be so harsh that most of the Indian firms got precluded from tendering. As a result, there was very poor response to the tenders, virtually leading to a monopolistic situation for a few firms who were able to grab most of money exchange counters (MECs) at major International airports. The glaring instance of such a monopolistic situation can be seen from the fact that at IGI Airport, Delhi, 14 out of 15 MECs got allotted to M/s Thomas Cook, while in Chennai, all the counters went to M/s T. T. Travels and in Kolkata all the MECs went to M/s Thomas Cook. Aggrieved by the stipulation of the condition of having 15 branches in India and abroad, some firms approached various high courts immediately after the Notice Inviting Tenders were issued, between August 1999 to October 1999. In October 1999, some High Courts termed these eligibility conditions as highly irrational, unrealistic and discriminatory. But the Airports Authority, after a lapse of 2 years, in September 2001, modified the eligibility conditions from '15 branches in India and abroad' to '15 branches in India and / or abroad'. After the modification, these firms got all the cases withdrawn / closed.

Keeping in view all the facts mentioned above, the Committee are of the view that the AAI should have promptly acted soon after the observation of Mumbai High Court in October 1999 was received, without waiting for another 2 years to amend the eligibility conditions. By doing so, the Committee believe that the revenue losses could have certainly been minimized. The Committee recommend that responsibility should be fixed for the revenue loss and suitable action be taken in the matters.

This instance clearly reveals that the decision-making mechanism in AAI requires a serious review and the Committee recommend that a review in this

regard should be carried out so that quick decisions are made in future in all matters having revenue implications.

Reply of Airports Authority of India

The Single Bench of Mumbai High Court in October 1999 while granting stay on the Writ Petition filed by the Petitioners, desired AAI to improve upon the wordings taken while framing the specifications so that they are not irrational, arbitrary and discriminatory. However, since cases filed on similar issues at Chennai Airport were dismissed in favour of AAI by a Division Bench of Madras High Court as there was no restraint in going ahead in processing the tender at IGIA, by Delhi High Court. AAI at that stage felt that the case would be disposed off in its favour and were regularly following up the matter in the Mumbai High Court.

However, the recommendations of the Committee has been noted and internal monitoring mechanism is being set up specially involving legal matters so that fast track action can be taken in cutting down the time factor involved in the litigation process.

All the concerned departments are being advised to be more prompt in monitoring and taking timely action adhering to the time frame laid down in the Commercial Manual for avoiding such losses in future.

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated 21st November, 2005]

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

The AAI has noted recommendations of the Committee for future compliance. A copy of the instructions issued to all the departments of AAI in this regard has been called for from the Authority, which is awaited.

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

A copy of the instructions dated 9.12.2005 advising the airports to be more prompt in monitoring and taking timely action adhering to the time frame laid down in the Commercial Manual to avoid revenue loss in future is enclosed (Annexure-I).

[Ministry of Civil Aviation O.M. No. G.25012/10/2005-AAI Dated the 21st February, 2006]

Comments of the Committee

See para no. 12 of Chapter I

CHAPTER V

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

- NIL -

New Delhi
20, March, 2006
29, Phalguna, 1927(S)

RUPCHAND PAL
CHAIRMAN
COMMITTEE ON PUBLIC UNDERTAKINGS

APPENDIX – I

MINUTES OF THE 15th SITTING OF THE COMMITTEE ON PUBLIC UNDERTAKINGS HELD ON 20th MARCH, 2006

The Committee sat from 1500 hrs to 1530 hrs.

CHAIRMAN

Shri Rupchand Pal

MEMBERS, LOK SABHA

2. Shri Manoranjan Bhakta
3. Dr. Vallabhabhai Kathiria
4. Smt. Preneet Kaur
5. Shri Shrinivas Patil
6. Shri Kashiram Rana
7. Shri Bagun Sumbrui
8. Shri Ram Kripal Yadav

MEMBERS, RAJYA SABHA

9. Prof. Ram Deo Bhandary
10. Shri Pyarimohan Mohapatra

SECRETARIAT

1. Shri N. C. Gupta, Under Secretary
2. Shri Ajay Kumar Under Secretary

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA

1. Ms. A.Basu Dy. C&AG
2. Shri Sunil Chander, Principal Director (Commercial)

2. The Committee considered and adopted the following Draft Reports without any modifications:-

- (i) XXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX
XXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX

- (ii) Action Taken Report on Action Taken by the Government on the recommendations contained in the Eighth Report of the Committee on Public Undertakings (14th Lok Sabha) on – Airports Authority of India – Loss of Revenue due to delay in award of Licences to Operate Money Exchange Counters.
3. The Committee authorized the Chairman to finalise the Reports for presentation .

The Committee then adjourned.

APPENDIX II

(Vide para 3 of the Introduction)

Analysis of the Action Taken by Government on the recommendations/observations contained in the Eighth Report of the Committee on Public Undertakings (Fourteenth Lok Sabha) on “Airports Authority of India – Loss of Revenue due to Delay in Award of Licences to Operate Money Exchange Counters.”

I.	Total number of recommendations	6
II	Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos I, III, IV, V and VI]	5
	Percentage of total	83%
LII	Recommendation which the Committee do not desire to pursue in view of Government’s replies (NIL)	NIL
	Percentage of total	NIL
IV	Recommendations in respect of which replies of the Government have not been accepted by the Committee...[vide recommendation at Sl. No II]	1
	Percentage of total.	17%
V	Recommendations in respect of which final replies of Government are still awaited	NIL

APPENDIX III

ANNEXURE I

No.: COM/913/3/2/89/3125-3134

December 9,2005

Airport Director,
Airports Authority of India,
CSI/IGI/NSCBI/Chennai/Trivandrum Airports,
MUMBAI/DELHI/CHENNAI/KOLKATTA/TRIVANDRUM

Regional Executive Director,
Airports Authority of India,
Western/Eastern/Northern/Southern/North Eastern Regions,
MUMBAI/ KOLKATTA /DELHI/CHENNAI/GUWAHATI

Subject: Action Taken on the recommendations contained in the Eighth Report of the Committee on Public Undertakings on Airports of India- Loss of Revenue due to Delay in Award of Licences to Operate Money Exchange Counters.

Sir,

One of recommendations made by the Committee on Public Undertakings (COPU) inter-alia, included that timely tender action should be initiated and quick decisions made in future in all matters having revenue implication. AAI assured COPU that all the concerned departments are being advised to be more prompt in monitoring and taking timely action adhering to the time frame laid down in the Commercial Manual to avoid such revenue loss in future.

Your are therefore, requested to take note of the same for strict compliance.

Kindly acknowledge receipt.

Yours faithfully,

(R.V.Narayanan)
General Manager (Comml.)

**ANNEXURE II
MOST IMMEDIATE
RECOMMENDATIONS OF
THE COMMITTEE PUBLIC UNDERTAKINGS**

No. G.25012/10/2005-AAI
Government of India
Ministry of Civil Aviation

B Block, Rajiv Gandhi Bhawan,
New Delhi-110003
Dated 14th October, 2005

To
The Chairman,
Airports Authority of India
Rajiv Gandhi Bhawan,
New Delhi-110003

Kind Attn: Shri M.C.Kishore, Company Secretary.

Subject: Recommendations of the Committee on Public Undertaking (COPU) on C&AG Audit Para No. 3.3.1 of Report No. 3 of 2005 (Commercial) regarding loss of revenue due to delay in award of licences of operate money exchange counters at Airports.

Sir,

I am directed to refer to Airports Authority of India letter No.H.11013/9(1)/05-P&C dated 22nd September, 2005 forwarding therewith Action taken Report(ATR) on the recommendations of the Committee on Public Undertakings (COPU) of the C&AG Audit Para on the subject cited above. Although this Minister reviews important projects of AAI periodically and these projects are also reviewed as part of Budget exercise and also through periodic review of Five Year Plan projects, the Committee in its Recommendation No. 6 has recommended that Ministry of Civil Aviation should strengthen its monitoring mechanism and conduct periodical reviews of the PSUs and provide suitable guidance to them.

2. In view of the recommendations made by the Committee on Public Undertakings (COPU), it is requested that Airports Authority of India should keep this Ministry informed of the important policy matters/projects particularly with reference to commercial and legal issues where coordination/guidance of the Ministry is required. It will be appreciated if a report on quarterly basis is furnished to this Ministry on such policy matters/projects which are delayed for their completion from their time bound schedule with the details of reasons for delay etc. It will be appreciated if the next quarterly reports on such matters for the quarter ending 31st December, is furnished to this Ministry in the second week of January, 2006 positively.

Yours faithfully,

(S.K.Arya)
Under Secretary to the Government of India
Tel. No. 24610360