

FIFTY-EIGHTH REPORT
COMMITTEE ON PUBLIC
UNDERTAKINGS
(1988-89)

(EIGHTH LOK SABHA)

AIR INDIA UNDUE BENEFIT TO PRIVATE OPERATORS
(Ministry of Civil Aviation and Tourism—
Department of Civil Aviation)



Presented to Lok Sabha on 27.4.1989
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LOK SABHA SECRETARIAT
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Corrigenda to the 58th Report of
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(1988-89) on Air India - Undue
benefit to private operators

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**COMMITTEE ON PUBLIC UNDERTAKINGS
(1988-89)**

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3. Smt. P.K. Sandhu—*Under Secretary.*

STUDY GROUP I ON INDIA TOURISM DEVELOPMENT CORPORATION LTD.; FOREIGN TOURS UNDERTAKEN BY CHAIRMEN, MANAGING DIRECTORS AND OTHER OFFICIALS OF PUBLIC UNDERTAKINGS (HORIZONTAL STUDY); LIFE INSURANCE CORPORATION OF INDIA; AIR INDIA ; (i) FARE ASPECT AND (ii) UNDUE BENEFIT TO PRIVATE OPERATORS.

- 1. Shri K.H. Ranganath—*Convener***
- 2. Prof. Saif-ud-din Soz—*Alternate Convener***
- 3. Shri Raof Valiullah**
- 4. Shri Dipen Ghosh**
- 5. Shri A.G. Kulkarni**
- 6. Thakur Jagatpal Singh**

INTRODUCTION

1. The Chairman, Committee on Public Undertakings having been authorised by the Committee to present the Report on their behalf, present this Fifty-eight Report on Air India-Undue benefit to private operators.

2. The Committee's examination of the working of the Company was mainly based on audit para I in Part VIII of the report of Comptroller & Auditor General of India, Union Government (Commercial), 1986.

3. The Committee took evidence of the representatives of Air India on 1 September, 1988 and also of the representatives of the Ministry of Civil Aviation and Tourism (Department of Civil Aviation on 25 October, 1988.

4. The Committee considered and adopted the Report at their sitting held on 12 April, 1989.

5. The Committee wish to express their thanks to the Department of Civil Aviation and Air India for placing before them the Material and information they wanted in connection with examination of the subject. They also wish to thank in particular the representatives of the Department of Civil Aviation and Air India who appeared for evidence and assisted the Committee by placing their considered views before the Committee.

6. The Committee also place on record their appreciation of the assistance rendered by the Office of the Comptroller & Auditor General of India.

NEW DELHI;

24 April, 1989

4, Valsakha, 1911(S)

VAKKOM PURUSHOTHAMAN

Chairman,

Committee on Public Undertakings

PART I

BACKGROUND ANALYSIS

1. Carriage of Cargo

The Comptroller & Auditor General of India in the audit para on "Air India—Undue benefit to private operators" in Part VIII of his report on Union Government (Commercial) 1986 observed that Air India incurred a net revenue loss of Rs. 5.77 crores from April, 1981 to April/July, 1983 due to the granting of traffic rights to two private operators—M/s. Huns Air and Pushpak Aviation. Against this loss only a nominal royalty compensation of Rs. 10.03 lakhs (Rs. 1000 per flight) from Pushpak Aviation and Rs. 1.92 lakhs (Rs. 500 per flight) from Huns Air was recovered.

1.2 The Ministry of Civil Aviation and Tourism (Department of Civil Aviation) informed the Committee in a note that M/s. Huns Air Private Limited was initially given 'No objection' by Air India for cargo operations in view of the circumstances prevailing in 1975 when Air India was not in a position to uplift cargo due to shortage of capacity. Refusal to Huns Air at that stage would have hampered Indian export to the Gulf and affected foreign exchange earnings into India. M/s. Pushpak Aviation started operating on the route Bombay-Sharjah-Bombay since 4. 6. 1979.*

1.3 Pushpak Aviation is a private limited company owned by one Shri H.P. Rao with its Registered office at Bombay.

1.4 Audit has pointed out that in view of Air India's inability to provide adequate cargo capacity from India to Gulf countries, Government granted permission in 1971 to a non-scheduled operator (Trans-Sharjah Airlines) for carriage of meat from India to Sharjah.

1.5 The Committee wanted to know during oral evidence of Air India as to what had been the cargo capacity provided by Air India to Gulf countries since 1974 and also the shortfall in capacity experienced by Air India each year. A representative of Air India stated in reply :

"Sir, Unfortunately, we do not have the details of the capacity from 1974 onwards. Our records available in the office are from 1980 onwards. Whereas we do not have the records available, it will be correct to say that in the 70's there was a shortage of cargo capacity,

* At the time of factual verification of the draft report, Audit pointed out that the date should read April, 1979.

and more so, during certain months, for perishables' like meat, vegetables, etc."

1.6 Asked about the rules regarding preservation of records by Air, India, the witness said, "Usually they are kept for ten years."

1.7 During oral evidence of the representatives of Department of Civil Aviation, the Committee wanted to know the rules of the Government regarding preservation of records. The Secretary, Civil Aviation stated :

"They (Air India) are autonomous statutory body. They are not governed by Government orders."

1.8 As regards preservation of records by Air India, the Department of Civil Aviation, however, stated in a written reply :-

"This is a matter which is determined by Air India keeping in view their legal, commercial and financial requirements. Government, does not lay down any norms in this regard."

1.9 Regarding the data relating to cargo capacity provided by Air India pertaining to the period from 1974 to 1980, the Managing Director of Air India stated in evidence :-

"We will make efforts to re-compile the data and submit it to you. The problem is that the total data is probably available, but the route wise data may not be available."

1.10 Asked what was the reason for not increasing cargo capacity on Gulf route to match the demand, the witness stated :

"Mostly in the case of Gulf, the demand for cargo capacity is only in one direction. That means the cargo from here to Gulf is more."

1.11 After the evidence, the Air India informed in a written reply that on India Gulf route the cargo capacity provided each year since 1974-75 was as under :

Year	Cargo Capacity (in Metric Tonnes)	% Growth/ Decline
1	2	3
1974-75	1939	—
1975-76	3080	+ 58.8
1976-77	5329	+ 73.0
1977-78	10082	+ 89.2
1978-79	10306	+ 2.2
1979-80	14302	+ 38.8
1980-81	17108	+ 19.6

1	2	3
1981-82	21710	+ 26.9
1982-83	21210	- 2.3
1983-84	27955	+ 31.8
1984-85	25776	- 7.8
1985-86	21018	- 18.5
1986-87	36956	+ 75.8
1987-88	30654	- 17.1
1988-89	31460	+ 2.6

1.12 Air India also claimed in a written reply as follows :—

“The capacity provided by Air India has been generally adequate to meet all demand of cargo traffic from India to Gulf. However, during peak demand period of approximately 3 months and on a few occasions demand exceeds available capacity on two sectors viz. India/Jeddah and India/Kuwait. To meet such demand efforts are made to lease or hire cargo capacity from outside parties wherever feasible.”

1.13 About the present position in regard to cargo capacity to Gulf countries, the Managing Director of Air India stated in evidence :—

“Today there is adequate capacity available on Air India for Gulf to meet the demand for fresh vegetable and fruits in Gulf.* There is also surplus of capacity available while coming back.”

2. Carriage of Passengers

2.1 According to Audit, on the representation made by Trans-Sharjah airlines that carrying only cargo had resulted in a loss, Government agreed in February 1975 to the lifting of five passengers per flight subject to a maximum of 70 passengers per month ex-Sharjah. Subsequently, another non-scheduled operator (Huns Air) sought similar facility and Government agreed in June 1976 that a total of 170 passengers per month be shared by the two airlines. When Trans-Sharjah withdrew its operations, Huns Air was given the authority to carry 170 passengers per month.

2.2 In 1978, another airline (Pushpak Aviation) sought permission to operate cargo flights from Bombay to Sharjah and also to carry passengers. Air India was not in favour of the proposal and informed the Ministry that Sharjah was only 15 minutes' drive by car from Dubai to which place Air India operated five flights a week. Since Air India's return passenger load factor

* At the time of factual verification of the draft report Air India suggested a change that the word gulf should read "Gulf, except Kuwait."

was only 65% and these private operators were charging only 50% of the normal fare, it was indicated that the grant of traffic rights to private operators was not in the interest of Air India. The Government, however, authorised Pushpak Aviation to carry 170 passengers per month.

2.3 Giving the details of the progressive increase in the traffic rights granted to private airlines, the Deptt. of Civil Aviation stated in a note as follows :-

“Initially M/s. Pushpak Aviation Pvt. Ltd. were permitted by the Government to operate flights from Bombay to Sharjah for carriage of publishable cargo such as vegetables, meat etc. Huns Air used a Viscount aircraft with a seating capacity of 45 passengers and Pushpak Aviation used a Caravelle aircraft with seating capacity of 90 passengers. In order to make their operations economically viable, Huns Air and Pushpaka Aviation were allowed on a monthly basis to carry on these flights from Sharjah to Bombay 170 and 200 deck class passengers respectively. At the end of 1979 a representation was received from Pushpaka Aviation that their monthly quota was inadequate to cover the operation cost as a result of increasing fuel prices. The quota was increased from 200 deck class passengers to 300 per month. In January 1980 Huns Air made a representation to increase their monthly quota 170 deck passengers. This was increased to 400 deck passengers w.e.f. January* 1980 in consultation with Air India.

When the monthly quota of Pushpaka Aviation was raised from 350 deck passengers to 500 per month of the recommendations of Air India, Huns Air quota was also increased proportionately to 400 passenger per month. As a result of the ban of export of meat from India, Pushpaka Aviation again made another representation to the Government to permit carriage of deck passengers from Bombay to Sharjah. On the recommendation of Air India Pushpaka Aviation was permitted to carry 500 deck passengers per month from Bombay, to Sharjah w.e.f. 1.4.80. From September 1980, Huns Air was also permitted to carry 500 deck passengers per month from Bombay to Sharjah.”

2.4 During the oral evidence of Air India, the Committee enquired whether the Corporation was consulted by Government for granting permission to non-schedule operators and if so, what was Air India's stand in regard to grant of permission (i) to Trans-Sharjah Airlines in 1974 and (ii) Huns Air in 1976. The Managing Director, Air India stated in reply :

* At the time of factual verification of the draft report Audit pointed out that the word should read 'June'

“Our records indicate that Air India was consulted and at that time since Air India did not have the cargo capacity, it was agreed that they might be allowed to operate.”

The witness also stated :—

“There is no doubt that the first operation in 1974 to the Gulf for the carriage of cargo was definitely made in consultation with Air India and Air India and the Government jointly decided that they did not have sufficient uni-directional capacity to the Gulf, therefore, it was decided to give them the capacity. Then, the question of carriage of passengers came subsequently when these carriers perhaps convinced the Government that it was not possible for them to operate viably only in one direction and come back empty on their return journey.”

2.5 Regarding the question of granting permission in 1978 for carriage of passengers by Pushpak Aviation, the witness deposed before the Committee :—

“At that time Air India recorded its opposition to allow the Pushpak to carry passengers. We were not operating to Sharjah in 1978. Our Contention was most of the parts of Gulf were so close by, we said, you take care of the requirement of passengers coming from Sharjah.

Air India proposed and advised the Ministry that Pushpak Aviation should not be allowed to carry passengers.”

2.6 Explaining the developments relating to grant of permission by Government for carriage of passengers by private airlines, the witness stated :—

“Air India allowed Trans—Sharjah Airlines to operate out of India with its cargo capacity. This was in 1974. That is the only concurrence as far as Air India is concerned. Subsequently, however, in 1975 this airline perhaps came back to the Government and said that it is not possible to operate viably on a uni-directional basis. We come back absolutely empty even though we carry cargo outbound. Our cost of operations of the aircraft are not met. The Government allowed them five passengers per week in return leg from Sharjah. Subsequently, Trans-Sharjah Airlines stopped operation in 1976. Huns Air, on the other hand, applied for such a permission only in 1976. But obviously it seems that they said to the Government that perhaps Trans-Sharjah has stopped operation because of becoming unviable. They said that the five passenger principle is not working and, therefore, they should be allowed 170 passengers on the Bombay-Sharjah run in order to make it viable and

then subsequently increased this demand, to 500 and then stopped at 500. It was increased to 500. The number is getting very high. They signed a commercial agreement with Air India. They gave them Rs. 500 per flight. Pushpak started its services in 1978. When Pushpak wanted to start their services, Air India objected. They said that the load factor on the Gulf is hardly 65% and Pushpak wants to charge 50% of the fare which means that there will be under-cutting of fare from Gulf to India.....Price differential in the fare will be more. However, the Government have good reason to think it fit to allow them to carry 170 passengers just like Huns Air was allowed at that time. In 1980, the situation changed. In 1980, Pushpak was accorded permission just like Huns Air to carry 1,000 passengers per month on the Bombay-Sharjah run. Before Government allowed them to carry 1,000 passengers just as in the case of Huns Air, Air India was asked to enter into a commercial agreement with Pushpak. Air India entered into a commercial agreement at Rs. 1,000 per flight. Then in 1981, Air India introduced its own flights to Sharjah and, therefore, the calculation of any loss to Air India is only relevant from the time that Air India really started its operations to Sharjah. Both these operators were asked by Government themselves, to stop operation. That is the total picture."

2.7 The Committee enquired the Secretary, Civil Aviation, why the Government over-ruled the objections of Air India in regard to grant of permission to Pushpak Aviation to operate cargo and passenger flights from Bombay to Sharjah in 1978 and also to carry passengers. The witness stated in reply :

"The position is that Government did not over-rule Air India in this case. There was a proposal for grant of permission to Pushpak Aviation for cargo flights and for carrying of deck passengers, ex-Sharjah. Air India raised objection, saying that these flights should not be treated as scheduled ones, but as chartered flights and that deck passengers should not be allowed. That was their first objection. Then the Managing Director of Air India had a meeting with the Minister; and after his discussions with the Minister, he sent a letter agreeing to it. There is a note that for Huns, they had agreed to 170, and that therefore, in this case they may also agree to, not just 170, but 200. But this was done after discussions with the Minister; but the Minister, by his persuasive charms, managed to persuade them. I do not think it would be correct to say that Government over-ruled the objections-because Air India accepted our position."

2.8 Asked how was it ensured that carrying of passengers by Pushpak

Aviation did not have any adverse effect on the passenger traffic of Dubai flights operated by Air India, the Deptt. of Civil Aviation stated in written reply :—

“The permission was granted on the basis of no objection conveyed by Air India. It is presumed that obviously, Air India had conveyed their concurrence after taking into consideration all commercial aspects of the operation.”

2.9 Subsequently, the quota of passengers that the two airlines—Pushpak Aviation and Huns Air could carry has reportedly been increased from time to time due to increase in cost of operations as a result of hike in petrol prices.

2.10 Effective 1.4.1980 Pushpak Aviation were permitted to carry 500 deck passengers from Bombay to Sharjah also. This was reportedly due to Pushpak Aviation's inability to carry meat from India consequent on the ban of its export and corresponding loss of load.

2.11 In August 1980, Huns Air also made a request to the Government for permission.

- (i) to carry 500 passengers per month from Sharjah to Bombay ; and
- (ii) to carry similar number of passengers from Bombay to Sharjah.

2.12 The Chairman, Air India had opposed the request made by Huns Air as he estimated that if Huns Air was permitted to carry 500 passengers per month from Bombay to Sharjah, Air India would stand to lose Rs. 3.6 lakhs per month or Rs. 43.20 lakhs per annum.

2.13 At the instance of the Committee, the Department of Civil Aviation made available some files relating to the audit para. It is observed from one of the Ministry's files that on 6.8.80, the Secretary, Civil Aviation recorded a note for the then Minister of Civil Aviation in connection with the above request of Huns Air the extract of which is as follows :—

“Air India are right in observing that if we give this Airline the facility asked for, then their revenues will be affected to the extent of Rs. 3½ lakhs per month.

Therefore, we have to work out a proper balance between allowing the private airlines to function and ensuring that they do not adversely affect Air India services.

I would, therefore, like a consensus to be arrived at in regard to this matter. If it comes to withdrawing the facility given to Pushpak Aviation we should not hesitate to do so, if ultimately that is the only alternative left to us.

After Minister has been this, I shall discuss the matter further with Air India and submit the same to Government."

2.14 It is observed from the records that on 15.8.80 the then Minister of Civil Aviation desired that the above case be discussed with him by the Secretary/Joint Secretary. On 26.8.80. the Joint Secretary recorded the following note :—

"In this connection, before the matter could be discussed with the Hon'ble Minister as desired by him, Air India have communicated their 'No objection' to Huns Air being allowed to carry 500 Deck class passengers per month from Bombay to Sharjah.....Now that.....Air India, perhaps on reconsideration, have conveyed their 'No objection' to allow Huns Air to carry 500 passengers from Bombay to Sharjah on the same basis as Pushpak Aviation, we may also have no objection."

2.15 Asked at what level the decision was taken in the Government to authorise progressive increase in the number of passengers to be lifted by the private airlines, the Deptt. of Civil Aviation stated in a written reply :-

"Initially the permission to Pushpak Aviation to carry 200 passengers from Sharjah to Bombay was taken at the level of Minister. The decision to increase carriage of passengers from 200 to 350 from February, 1980 was taken at the level of Director General of Civil Aviation. The decision to allow 500 passengers from Bombay to Sharjah was granted at the level of DGCA on the basis of Air India's no objection."

3. Joint Operation

3.1 The audit pointed out that the permission granted to the two airlines to operate between Bombay and Sharjah continued even after March, 1981 when Air India introduced direct flights to Sharjah. The two Airlines were allowed to operate on this route as associates of Air India till April/July 1983.

3.2 In this connection, the Deptt. of Civil Aviation informed the Committee in a note as under :—

"Pushpak Aviation entered into an agreement with Air India to operate as an associate of Air India for a period of two years operative from 10.3.1981 and was permitted to operate 5 flights a week and passengers to be carried on these flights would be 1000 per month in each direction on cumulative basis upto 10.3.82 which may be reviewed subsequently. The operation stopped beyond 15.7.83 on account of non-extension of agreement.

In May, 1981 Huns Air entered into an agreement with Air India to operate as an associate of Air India for a period of two years w.e.f. 1.5.81 to operate two flights per week Bombay - Sharjah - Bombay on the condition that the number of passengers to be carried on these flights will be 500 per month on the sector Bombay - Sharjah and 400 per month on the sector Sharjah - Bombay. Any deficiency in the number of passengers carried per month may be carried forward on cumulative basis upto 1.5.82. The Huns Air continued to operate upto 23.5.83 without extending the agreement which expired on 1.5.83. They were asked to stop operation in the absence of extension of agreement."

3.3 When asked as to what were the considerations for allowing the private airlines to continue their operations even after Air India introduced direct flights to Sharjah in 1981, the Department of Civil Aviation then stated in a written reply :—

"Air India introduced direct flights to Sharjah in March, 1981. However, in March, 1981, they themselves entered into an agreement with Pushpak Aviation, allowing the latter to operate five times a week to Sharjah in association with Air India. Under the Agreement, Air India was to get a royalty of Rs. 1,000/- per flight in each direction. This agreement was valid for a period of two years from 10th March, 1981. Similarly, Air India entered into an Agreement with Huns Air Private Limited for the operation of flights to Sharjah. The Agreement with this Company was for a period of two years from 1st May, 1981. Huns Air was to pay Rs. 500/- to Air India per flight in each direction. On the basis of these interline agreement, this agreement was allowed."

3.4 During oral evidence, when enquired how the proposal for joint operation of Air India with private airlines emanated, the Secretary, Civil Aviation stated :—

"This is the inference that we can draw. This was at the instance of Air India. There was a letter dt. 5.3.81 from the Chairman and Managing Director of Air India (Shri Raghu Raj) to the Secretary, Government of India, Ministry of Tourism and Civil Aviation, New Delhi, I quote :—

I refer to the discussions we had in your office yesterday in respect of Pushpak Aviation operations to Sharjah

2. This is to confirm to you that, in terms of Clause (h) of sub-section (2) of section 7 of the Air Corporations' Act, we seek your prior approval for us to enter into an agreement with Pushpak Aviation to operate five times a week to Sharjah in association with Air India.

3. The agreement will include a provision for Pushpak Aviation to pay royalty to Air India on each flight and the number of passengers to be carried per month. The agreement would further make it clear that Pushpak Aviation would operate on its own colours and flight numbers as hitherto.....”

3.5 It is, however, observed from the records made available to the Committee that Air India's proposal seeking prior approval of the Government for entering into agreement with Pushpak Aviation in March, 1981 was preceded by deliberations on this question by the officials within the Ministry and also with the officials of Air India at the instance of the then Minister of Civil Aviation

3.6 It is also observed from the files made available by the Ministry to the Committee that the following is the text of a D.O. letter No. AV. 13012/8/80-A dated 29-1-81 from the Director (Shri S. Ekambaram) Department of Civil Aviation to the Director (R&I) (Shri R.V. Ranadive) of Civil Aviation Department regarding Air India operations to Sharjah;

“This question was discussed in a meeting taken by Ministry when Secretary and Shri Barretto, Commercial Director, Air India were also present, Shri Barretto stated that once Air India commences operations to Sharjah, Huns Air and Pushpak Aviation should not be permitted to carry passengers as it would be detrimental to Air India's commercial interests. He added that Air India would have no objection to these two airlines operating to Sharjah solely for carriage of cargo. In the circumstances it has been decided that Huns Air and Pushpak Aviation may be given a notice of say four weeks informing them that on expiry of this period they would not be permitted to carry passengers on their flights to from Sharjah.”

3.7 During evidence of representatives of Air India, the Committee enquired whether Air India had the option to say no in regard to the question of entering into agreement with private airlines for their operations. The Managing Director, Air India replied :

“There was need to carry this cargo from out of India. The decision to allow them to operate was taken even before the need of commercial agreement arose.”

3.8 The Secretary, Civil Aviation informed the Committee during oral evidence that Air India agreed to the extension of the “Associateship” agreement with Pushpak Aviation even beyond March 1983 without the approval of the Government. He stated in this connection :

“In fact, this agreement (of March 1981) was for two years. There was no provision for extending this. The Air India wrote to Pushpak and

they agreed to extension by another three years. There was a severe stricture by the Ministry, by the Secretary, by the officers that Air India had not acted properly. They had not made review of the benefits or the losses they had incurred as a result of these operations. It was not proper on their part not to have done it. They were told to go back to the Board and the Board did not agree to the agreement being continued. They recommended that the agreement should be terminated”.

3.9 In terms of clause 7(2) (h) of the Air Corporations' Act, agreement of this nature can be entered into only with the prior approval of the Government. The agreement with Pushpak Aviation which expired on 9-3-1983 reportedly did not contain a renewal clause.

3.10 Clarifying the role of Government in the matter of grant of permission initially for carriage of passengers by private airlines and subsequently when Air India entered into agreement with the private airlines for joint operation, the Secretary, Civil Aviation stated :

“There were two distinct phases : *Prima facie*. in the first phase, when these operators were given the permission to carry passengers, well you could say that the Government behind the scene acted, although the approval of Air India is there.

But after that, when the joint operations were started, it was entirely Air India's responsibility. In fact, in Air India itself there was a conflict. Their Commercial Director wrote letter that it is against the interests of Air India. The Managing Director gave a letter to Pushpak, that “We have agreed to the extension, subject to Government's approval, on stamp paper...” They say those documents have been destroyed. But those papers are on our file where it is very clearly shown that these decisions were taken by Air India itself.”

The witness further stated :—

“In fact the (then) Secretary has noted that ‘Air India's stand on Pushpak Airlines has been very ambivalent. Whereas in my personal discussions with the Chairman I was given to understand that the operations of Pushpak to Sharjah are to their detriment and their operations should not be allowed to continue, yet they had no hesitation in extending the existing agreement for a period of three years without even modifying to their advantage the terms and conditions of the earlier agreement’. It was only when Air India's attention was pointedly drawn to this and it was suggested that the matter should be placed before the Board of Directors with its full financial implications that Air India adopted a different position”.

3.11 The witness also read out in this connection the letter dated 24-1-1983 addressed to the Chairman, Pushpak Aviation by the Chairman & Managing Director of Air India (Shri Raghu Raj) which reads as follows :

“In consideration of the reasons mentioned by you, this is to confirm that Air India would have ‘no objection’ in extending the validity of the current agreement between Pushpak Aviation and Air India for a further period of three years commencing from 10th March, 1983 on the same terms and conditions as currently applicable.

The agreement dated April 16, 1981 between Pushpak Aviation and Air India is of course subject to the necessary clearances from the Governmental Authorities.

3.12 It is also observed that in a letter addressed to the Civil Aviation Secretary (no. MKT/GSR/20-8) on June 19, 1983, the Commercial Director, Air India took the following stand in regard to the question of extension of agreement with Pushpak Aviation :

“In January 1983, M/s. Pushpak Aviation requested Air India to extend their ‘Associateship’ agreement with Air India for a further period of seven years effective from March 10, 1983. Given the background against which Pushpak Aviation were permitted to operate scheduled air services to Sharjah, in March 1981, Air India conveyed its ‘No objection’ to extending the validity of the ‘Associateship’ agreement but limited the extension to three years instead of seven years sought by Pushpak Aviation. The extension was made subject to the necessary clearances from the governmental authorities in recognition of the fact that Air India had no right and has no right to grant traffic rights to any operator. Government of India’s clearance was accorded vide letter No. AV. 14015/11/78/-ATI of February 4, 1983 addressed to M/s. Pushpak Aviation Pvt. Ltd. by Shri I.R. Menon, Director of Regulations & Information in the office of the Director General of Civil Aviation. It will be seen, therefore, that the decision whether or not Pushpak should be allowed to continue to operate scheduled air services between Bombay and Sharjah beyond March 9, 1983 was to be the Government of India. Notwithstanding the above, Air India has consistently maintained in its various communications with the Ministry of Tourism and Civil Aviation that the operation of scheduled international air services by private operators like Pushpak Aviation and Huns Air is causing serious revenue damage to Air India by diversion of traffic from Air India’s own services. We have maintained that had Pushpak and Huns Air not been permitted to operate on the Bombay/Sharjah/Bombay route, almost the entire traffic carried on their

services would have been carried on the services of Air India and its pool partner, Gulf Air. On the basis of the actual carriage of traffic by M/s Pushpak Aviation and M/s Huns Air, it has been estimated that their operations to Sharjah result in a revenue loss to Air India and Gulf Air of the order of Rs. 640 lakhs annually. Air India has also maintained that apart from causing diversion of revenues, the operation of scheduled international air services by these private operators has raised numerous other problems as follows :

(1) *Bilateral Problems*

In terms of the Confidential Memorandum of Understanding Air India and Gulf Air are the two designated Carriers authorised to operate scheduled air services between India and the Gulf States. Air India operates to the specified countries in the Gulf States in pool with Gulf Air. The pooling arrangement with Gulf Air provides for total reciprocity in frequency and capacity entitlements and also provides for a revenue sharing arrangement. As a result of the Authorisations granted to M/s. Pushpak Aviation Pvt. Limited and M/s Huns Air to operate to one of the countries specified in the Confidential Memorandum of Understanding of April, 1980, Gulf Air have justifiably argued that the Indian designated Airlines, including these two 'Associates' of Air India are providing capacities and frequencies on the route in excess of the provisions of the pool agreement between Gulf Air and Air India; in effect, Gulf Air's objection tantamounts to our being required to include the capacities provided by Pushpak Aviation and Huns Air in Air India's capacity and frequency entitlements and in the revenue sharing arrangements. Apart from lodging their protest with Air India, it will be recalled that the Chief Executive of Gulf Air brought this problem to the attention of the Hon. Minister for Tourism & Civil Aviation at the meeting in Delhi on May 9, 1983. The problem remains unresolved... . Again in terms of bilateral air services agreements, the principle of reciprocity affording equal rights and opportunities to the carriers of signatory countries is inherent; therefore, allowing more than one designated Indian carrier to exercise traffic rights could well lead to reciprocal demands from the other Governments which would be to Air India's detriment.

(2) *Marketing Problems*

On grounds of their equipment being inferior to the equipment used by Air India and Gulf Air, Pushpak Aviation and Huns Air have been allowed by the Government to charge fares lower than the published fares. In addition to the formal price advantage granted to these private operators their marketing practices are questionable and it is reliably

understood that they offer further price inducements in the market-price. As a result, they have been able to make serious inroads into Air India's traffic between Bombay and Sharjah/Dubai. In effect a deregulated situation has been created without a conscious deregulation policy. On the India/Gulf and the Gulf/India routes, we have recently, after protracted negotiations, been able to secure agreement of the various operators on the route to restore traffic integrity in the market place. The price advantage allowed to the Indian private operators continues to undermine the effectiveness of these efforts. It has accordingly been Air India's considered opinion that as a matter of sound aviation policy, it is far from astute to approve IATA established fares and rates for scheduled operations on the hand and then grant authorisations to private operators for operation of parallel services at reduced fares on the other.

In appreciation of the factors enumerated above it continues to be Air India's view that the authorisations granted to private operators in India to operate International scheduled services will not only continue to syphon away Air India's legitimate traffic and revenue but will also result in much wider repercussions to the detriments of the country's Aviation policy and objectives. In keeping with the above views and in consideration of the valid objections raised by Gulf Air, we strongly recommend that the operating licences granted to Indian private operators to operate international air services from India be withdrawn."

3.13 In an earlier letter No. MKT/GSR/20-8/367 dated April 19, 1983 addressed to the Ministry on the question of granting permission for Pushpak Aviation to purchase additional aircraft, Shri Raghu Raj, the then Chairman of Air India stated :

"The Ministry is already aware of Air India's views with regard to the permission granted to private operators in India to operate between Bombay and Sharjah. As explained in my letter No. MKT/GSR/60-5A of March 4, 1983 addressed to the Secretary, Ministry of Civil Aviation the operation of scheduled services by Pushpak Aviation and Huns Air are already causing a revenue damage to Air India of close to Rs. 650 lakhs annually. Notwithstanding the fact that Air India has consistently opposed such operations, they were allowed to operate such scheduled services in consideration of the fact that they have idle aircraft capacity which they were obliged to maintain at considerable expenditure and that by deploying this capacity on a scheduled operation, they would earn valuable foreign exchange for the country. It is our considered belief that this argument will no longer be tenable if Pushpak Aviation and indeed Huns Air are now permitted to acquire new aircraft on the grounds

that they have been permitted to operate scheduled services to Sharjah. It has also to be considered that with the recent decline in oil prices, it is generally believed that there will be a slowing down in construction activities in the Gulf, including Sharjah and Dubai. It is inevitable, therefore, that such slowing down in construction activity will result in a slowing down in the traffic flow between India and these countries and could well lead to a situation where the available scheduled capacity, excluding, Pushpak Aviation and Huns Air will exceed demand. Air India, itself has recently acquired the wide bodied A 300 B4 aircraft and mounted this additional capacity exclusively on the Gulf routes, including Dubai and Sharjah, and commercially there is no justification for permitting the Indian private operators to continue to operate parallel services on these routes. If Pushpak Aviation are allowed to purchase new aircraft for such operations they will not only continue to operate on the Bombay/Sharjah route in perpetuity, but are more than likely to pressurise the Government for additional routes again on grounds of available idle capacity. For reasons dealt with at length in my letter of March 4, 1983, we are firmly of the view that as and when Pushpak's current aircraft fleet ceases to be airworthy, their licence to operate scheduled services should be cancelled.

"For reasons stated above, we see no justification for M/s. Pushpak Aviation being permitted to purchase additional aircraft involving substantial expenditure in foreign exchange."

3.14 During oral evidence, when asked whether any investigation was conducted into the matter with a view to fixing the responsibility for entering into "Associateship" agreements with these private airlines and also for renewal of agreement with Pushpak Aviation, the Secretary, Civil Aviation then stated, "No, it was not done."

3.15 When enquired as to why it was not done, the witness stated :

"Subsequently, after discussions they (Air India) have agreed to it (termination of agreement). We cannot go further."

3.16 Asked what was the policy of the Government at that time with regard to allowing private airlines to operate, the witness stated :

"The private operators can still be allowed. Even now, in Charters, if there is shortage, private operators can be allowed to operate cargo traffic. There is no bar on it."

3.17 Enquired whether Civil Aviation Law permits operation by private airlines, the witness stated :

"Yes, it permits. In fact, there has been tremendous bulk of cargo. We asked Air India to lift it. When they said that they could not do it, it was given to the private operators. In that particular case, since there was a bulk of cargo, particularly meat and vegetables, which are perishable commodities, these operators mentioned that it was not economically viable for them to carry it one way. So, initially they have asked permission to carry labourers and bring them back. In 1981, it was decided that it should be stopped and let Air India jointly operate with them. Now it is left with Air India. Air India decided to operate one flight to Sharjah. Similarly, Air India had to decide what compensation was to be paid by the private operators to them. They fixed a very low rate. This was brought to the notice of the Government only at the time of renewal and the Government refused to approve it and asked them to refer the matter to the Board."

3.18 To a query whether there are any private airlines still on operation on India-Gulf or any other route, the Managing Director, Air India replied, "Not of this nature".

3.19 The relevant provisions of the Air Corporations Act, 1953 read as follows :—

Section (18)(1)(e) and 18(2)

"18 1)(e) After the appointed date, it shall not be lawful for any person other than the Corporations or their associates to operate any scheduled air transport service from, to, in or across India :—

Provided that nothing in this section shall restrict the right of any person to operate, with the previous permission of the Central Government for such period and subject to such terms and conditions as that Government may determine, any scheduled air transport service as aforesaid which is not provided by either of the Corporations or their associates.

18(2) Any person who operates a scheduled air transport service in contravention of the provision of this section shall be liable in respect of each offence to a fine which may extend to one thousand rupees or to imprisonment which may extend to three months, or to both.

Explanation—The operation of each flight shall constitute a separate offence for the purpose of this section."

3.20 Under Section 7(2)(h) of Air Corporations Act, Corporation has power with the previous approval of the Central Government, to enter into agreement with a view to enabling such person to provide air transport service on behalf of or in association with the Corporation.

3.21 The Committee asked Air India to explain the considerations which led to renewal of the agreement with Pushpak Aviation in 1983 and also the reasons for not taking the prior concurrence of the Government on this matter. The Air India explained in a post-evidence reply as follows :

“Air India had consistently opposed the operations of Pushpak Aviation and Huns Air between India and the Gulf. This has been indicated as explained to the Ministry in numerous correspondence mostly from the then Dy. Managing Director (commercial), the then Commercial Director and the Dy. Commercial Director. From the records in our files, it appears that the matter of Pushpak Aviation and Huns Air was being handled by the then Chairman. The letter dated 28 May 1980 addressed to the DGCA and the Ministry by our then Chairman, Shri Raghu Raj, indicates that Air India had no objection to the operations of Pushpak Aviation and its carriage of passengers upto a limit of 500 passengers per month. No reasons for this have, however, been recorded on Air India's files.

However, in April 1983, Shri Raghu Raj had also indicated and explained the adverse impact and the revenue loss to Air India as a result of operations of these two private carriers in his letter No.MKT/GSR/20-8/367 dated 19 April 1983 addressed to the Ministry. At the same time, however, in the early part of 1983, one of Chairman's communications indicated an intention to renew the associate agreement, between Air India and Pushpak Aviation, Air India's records do not indicate the reasons for this communication. As a point of procedure, such extensions must be done with the prior approval of the Government.

3.22 When Air India was enquired whether the approval of Board of Directors was taken on the 'Associateship' agreement entered into with Pushpak Aviation and Huns Air in 1981 and also when the agreement was proposed to be renewed with Pushpak Aviation in 1983, Air India stated in a written reply as follows :

“Approval of the Board of Directors for such commercial agreements is not necessary, as it is a matter to be handled at the level of the Departmental Heads of Planning and Commercial, with the approval of the Chief Executive.”

4. Load Factor

4.1 According to audit, due to competition and undercutting of fare by the two private operators, Air India could achieve on the Bombay/Trivandrum Sharjah Sector a load factor ranging between 25 and 54 per cent only during April 1981 to March 1983. The spare capacity available with the Air India could have absorbed the passenger traffic permitted to be carried by these private operators.

4.2 During oral evidence of the representatives of Deptt. of Civil Aviation, the Committee enquired whether the load factor was reviewed every year from 1974 in respect of Air India's flights in this sector while renewing the permission granted and authorising progressive increase in the number of passengers to be lifted by the non-scheduled operators. To this the Secretary, Civil Aviation said : "No."

4.3 Asked to state year-wise Air India's passenger load factor on India-Dubai sector since 1974 and India-Sharjah sector since its inception. Air India in a written note stated as follows :

"Load factors are compiled on a route-wise basis. The load factors achieved on the India-Gulf route are representative of load factors experienced on the Gulf sectors such as India-Dubai, India-Sharjah, India-Kuwait, etc. The load factors on the India-Gulf route since 1975-76 were as under :

Year	Pax L.F. (%)	Ov, L.F. (%)
1975-76	74.0	69.2
1976-77	71.8	62.2
1977-78	69.8	57.3
1978-79	74.3	59.1
1979-80	68.2	57.7
1980-81	62.1	51.2
1981-82	67.0	57.3
1982-83	69.7	61.8
1983-84	67.5	60.8
1984-85	62.9	59.3
1985-86	63.9	58.1
1986-87	64.5	59.2
1987-88	62.5	57.5

4.4 The Managing Director, Air India stated during evidence that the average percentage of load factor during 1981-82 to 1987-88 was 57 to 58%.

5. Revenue Loss

5.1 Estimates of loss to Air India since 1974-75 due to operations of non-scheduled private airlines are given in the following statement :

Estimates of Loss

(Rev. in Rs. lakhs)

Year	Trans Sharjah Airlines	Hans Air		Pushpak Aviation		Total	
		Pax No.	Rev.	Pax No.	Rev.	Pax N.	Rev.
1974-75	Nil	Not applicable		Not applicable		Nil	Nil
1975-76	Not applicable	462	7.85	"		462	7.85
1976-77	"	748	12.72	"		748	12.72
1977-78	"	816	14.57	"		816	14.57
1978-79	"	816	14.57	"		816	14.57
1979-80	"	816	15.25	1080	20.20	1896	35.45
1980-81	"	3136	58.64	4800	89.76	7936	148.40
1981-82	"	2160	42.23	10262	200.62	12422	242.85
1982-83	"	2160	42.23	10270	200.78	12430	243.01
Apr/Jul '83	"	355	6.93	3020	59.04	3375	65.97
Total		11469	215.00	29432	570.40	40901	785.40

5.2 Air India has indicated that for the period January 1975 to March 1981, the loss was Rs. 233.52 lakhs, and for the period April 1981 to July 1983 the loss was Rs. 551.88 lakhs. It has also been stated that in estimating the loss the following assumptions have been made :

- (i) "For the period upto March 1981, in the absence of actual carriage date of the private operators it is assumed that their carriage was upto the level of their entitlements. For the period subsequent to March 1981, data is based on actual carriage as given by the DGCA's representative at Bombay Airport.
- (ii) If the operation of these private airlines had not taken place, Air India would have carried approximately 40% of their traffic, based on Air India's 40% market share on the India-Gulf sector.
- (iii) The yields per passenger taken into account in estimating the revenue loss are as under :

For the period 1975/76 to 1976/77 Rs. 2000

For the period 1977/78 to 1978/79 Rs. 2100

For the period 1979/80 to 1980/81 Rs. 2200

The above are based on the yields (Rs. 2300) that was established for the period 1981/82 onwards in the context of estimating the loss of revenue as required by Government audit and the Ministry.

- (iv) Since on several occasions (during the period under review) Air India indicated to the Ministry that it had no objection to carriage of cargo from India to Gulf by the private operators (due to occasional shortage of capacity) it is assumed there was no loss to Air India in respect of cargo.

5.3 The audit had estimated the net revenue loss to Air India from April 1981 to April/July 1983 as Rs. 5.77 crores. The Deptt. Civil Aviation, however, informed the Committee in a note as follows :—

"Pushpak Aviation and Huns Air actually carried 30, 803 passengers during the 12 months period from August, 1982 to July, 1983. The figures of actual carriage of passengers by these two airlines for the period prior to August, 1982 are however, not available. Assuming that the two private operators carried the same number of passengers as were carried by them during the 12 months period August, 1982 to July, 1983 the estimated loss to Air India for a period of two years between 1981-83 would amount to Rs. 566.76 lakhs. Since Audit para has made a reference to the period from April 1981 to July 1983, the estimated notional loss to Air India on pro-rate basis would have been Rs 649.27 lakhs for this period. After adjusting certain cost (@ 15% of the revenue) which would have been incurred by Air India, had they carried these passengers themselves the net estimated loss to Air India would have been Rs. 551.88 lakhs. This is based on Air India's estimates. The audit para has however estimated this loss at Rs. 5.77 crores.

5.4 Audit had pointed out that according to the formula for sharing of revenues for operating on the domestic sector, 55% of the revenues earned by Air India are paid to Indian Airlines. Calculated on this basis, the private operators were allowed to retain an advantage of Rs. 1.74 crores upto 28 February, 1981 as no provision was made for similar payment by these operators. During the course of evidence of Air India, the Committee asked as to what was Air India's policy/ practice regarding sharing of revenues in the international operations. The Managing Director stated :—

“The concept of revenue sharing arises from the principle of imbalance in capacity of members. To give you an example assume that a country wishes to start service to India. And India is not in a position to start service to that country 'X'. In that event, commercial agriment is arrived at with country to allow them to operate on unilateral basis. But they share the profits with Air India at the original traffic. Formula for this particular thing is based on cost which is incurred and deducted from the overall revenue and then the profitability shared on an acceptable basis. That is the normal formula. There are, however, some agreements which have been made on the basis of percentage of the gross revenue.”

A representative of Air India stated in this connection :—

“A far as domestic revenue is concerned, there is only one example which is Air India and Indian Airlines. Now Air India by charter, is an international operator and the Indian Airlines is a regional operator. So, when Government decided that Air India's capacity should also be utilised on the domestic sector as it travels between Bombay-Delhi, Madras and Calcutta on route to an international station, Indian Airlines felt that because Air India was taking away its traffic, there should be a sharing of revenue on percentage of 55 and 45. This was in the past. Lately, 40 per cent is being given to the Indian Airlines.”

5.5 The Secretary, Civil Aviation stated in this regard as under :—

“This is not a domestic sector Only on the domestic sector sharing of revenues comes, where for example Air India is operating on a domestic sector from Bombay to Delhi carrying domestic passengers, or from Bombay to Trivendrum where domestic passengers are carried.”

5.6 When enquired whether Air India raised the question of claiming royalty compensation from the non-scheduled operators for operations during the period 1975 to 1981, the Managing Director in India said, 'No'. The witness, however, stated :—

“I am speaking from my recollection of facts from the records. Since the

permission to the private operators was granted on the basis of consultation with Air India, the question of asking for royalties did not arise. It was done in consultation with Air India in the interest of carrying cargo out of India. Since Air India was utilising the entire capacity, there is no question of asking for royalties. Trans-Sharjah stopped operation in 1976. Huns Air started operation in 1976. Permission was given to carry 170 passengers in one direction only i.e. Sharjah-Bombay, per month, till 1981. In May 1989, permission was granted to carry 500 passengers to Huns Air and 1000 passengers to Pushpak. The decision was taken by Government and Air India was asked to enter into commercial agreement which we did."

The witness also said :

"We started pressing for it in 1978 when Pushpak came into picture. Air India can only present its point of view. Bilaterals are really the prerogative of the Government. They do ask for the Air India's view."

5.7 Audit has reported that against a net loss of Rs. 5.77 crores to Air India from April 1981 to April/July 1983 only a nominal royalty compensation of Rs. 10.03 lakhs (Rs. 1000 per flight) from Pushpak Aviation and Rs. 1.92 lakhs (Rs. 500 per Flight) from Huns Air was recovered under the orders of Government during this period. The Committee wanted to know from Air India as to what was the basis for determining the royalty compensation from Pushpak Airlines and Huns Air. To this, Air India stated in a written reply as follows :

"Since Air India was opposed to the operations of M/s Pushpak Aviation and Huns Air, the question of seeking royalty compensation from these carriers did not arise. Since traffic rights were given to these carriers by the Government, it was suggested that Air India be compensated in some form by these carriers."

5.8 In the post evidence reply Air India informed the Committee in this connection as follows :

"In regard to the low level of royalty compensation no reasons have been recorded on Air India's files. We can only presume at this stage that these amounts were perhaps based on the claims of these private carriers that the economics of their operations were not satisfactory."

5.9 Asked whether there are any guidelines laid down by IATA or by Air India itself regarding claiming of royalty compensation from other airlines for their operations in another country. Air India stated in a written reply that for international operations where operations by the non-scheduled carriers

are considered necessary or justified 5% royalty payment is generally sought by Air India as compensation.

5.10 The Committee asked the Department of Civil Aviation to explain the reasons for deviation from the general practice of seeking 5% royalty payment. That Deptt. then stated in written reply as follows :

“The Government had only given permission in principle to Air India to enter into an agreement with Huns Air and Pushpak Aviation. The details of commercial arrangements were negotiated between Air India and the parties themselves. The Government was not required to approve the exact terms and conditions of the agreement.”

5.11 When enquired who has been vested with the powers to determine royalty the Managing Director, Air India stated during evidence :

“There are two aspects. One is that permission has been given to the operator to operate with 1,000 people in each direction. That having been done, Air India was asked to negotiate commercial agreement which was negotiated by Air India for Rs. 1,000 per flight.”

5.12 The Secretary, Civil Aviation also stated in this connection :—

“There was this agreement in 1981 for joint operation between Air India and these private operators. So far as this agreement was concerned government gave their approval in principle for having this joint operation. Now the detailed terms of the agreement were entirely left to Air India; they worked out their terms. Now if those terms were to their disadvantage, it was Air India which was responsible. No directive was given by the Government.”

The witness added :—

“In fact, in all the agreements that are signed even with the Government, so far as the commercial part is concerned the compensation that has to be determined is settled by the Airlines themselves and the Government does not come into the picture. Here also, there was no directive at all from the Government. If Air India decided to take very small royalty, it is their commercial judgement and their responsibility. In fact on this specific point there is a noting on the file by the Joint Secretary. He says that “but for our intervention Air India would have extended the agreement and on the grossly inadequate royalty of Rs. 1,000 per flight which is less than the fare of one passenger.”

The witness also stated :—

“The legal advice was obtained on that matter. The legal advice was that Government was only concerned in giving permission for having an agreement. What the terms of the agreement should be it was for the Air India to decide”.

5.13 The Secretary Civil Aviation also informed the Committee that “So far as the terms of agreement with the private airlines are concerned, the Government does not come into the picture and it is entirely for the Air India Board to consider it.”

5.14 Enquired whether the royalty to be claimed from the private airlines was decided by the Board, the witness said : “It is entirely an internal matter for the Board.”

PART II

CONCLUSIONS/RECOMMENDATIONS OF THE COMMITTEE

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

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

3. The Committee find that the number of passengers authorised to be lifted Ex-Sharjah by the private operators increased progressively from time to

time on the plea of increase in cost of operations. In the case of Pushpak Aviation the quota per month was increased from 200 in April 1979 to 350 in February 1980 and to 500 in April 1980. In the case of Hums Air, the number was increased from 170 in June 1976 to 400 in January 1980. The Committee are shocked to note that progressive increase in the authorisation was granted to private operators at the cost of Air India. Rather the private airlines should have been asked to raise the fare which was reported to be 50% less than the normal fare charged by Air India.

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

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

6. What is more distressing to the Committee is when one considers how the provision of the Air Corporations' Act was flagrantly misused in order to benefit the private operators. Under the Air Corporations' Act it is unlawful for any one other than the Corporation or its associates to operate any scheduled air transport service which is provided by the Corporation. As such after Air India commenced direct flights to Sharjah in March 1981, it was not legal to allow the private airlines to continue their operations to Sharjah. In order to

circumvent this legal obstacle, Air India with the prior approval of Government, entered into an agreement with Pushpak Aviation and Huns Air under Section 7(2)(h) of the Act to operate as associates of Air India for a period of two years from 10.3.1981 in the case of the former and from 1.5.1981 in the case of the latter. Evidently, the justification and implications of entering into associateship agreement with the private airlines were neither examined by Air India nor by Government. As a result the Associateship status granted to the private operators to operate international scheduled services not only syphoned away Air India's legitimate traffic and revenue as brought out in succeeding paragraph but also resulted in much wide repercussions to the detriment of the country's Aviation policies and objectives. In effect a situation had been created wherein international air services had been denationalised through back door without a conscious decision of the Government.

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

8. Yet another instance which the Committee are distressed to find relates to the renewal of 'associateship' agreement with Pushpak Aviation in 1983. The original agreement with Pushpak Aviation which expired on 9.3.1983 did not contain a renewal clause. The then Chairman of Air India (Shri Raghu Raj) however, agreed to the extension of the agreement with Pushpak Aviation for a further period of three years without the prior approval of the Government and without even modifying to their advantage the terms and conditions of the original agreement. According to Air India, its records do not indicate the reasons for this action of the then Chairman of Air India. The Committee observe that the Director of Regulations and Information in the office of the Director General of Civil Aviation also accorded clearance to the extension of the agreement. The Ministry of Civil Aviation subsequently, however, raised an objection to the extension and directed Air India to place the matter before the Board of Directors. The Board, however, refused the extension of the

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

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

10. The startling disclosures in the foregoing paragraphs indicate the need for a thorough probe into the whole episode starting with the issue of granting traffic rights to Pushpak Aviation in 1978 and ending with the joint operation of Air India with the private airlines from 1981 to 1983. The Committee regret to learn from the Civil Aviation Secretary that no investigation was conducted into the matter despite obvious improprieties and doubtful conduct by those in power at that time in the Ministry of Civil Aviation as well as in Air India. The Committee desire that the whole case should be referred to CBI for a probe with a view to finding out who were responsible at various stages in the episode and the extent of the role played by them. The Committee would like to be informed of the outcome of the probe and the action taken against those found guilty.

11. The Committee observe that no approval of Board of Directors was taken on the question of entering into 'associateship' agreements with private airlines although Air India had taken a stand that the operations by private airlines were detrimental to the commercial interests of the organisation and resulted in dilution of the declared aviation policy of the Government. The Committee do not agree with Air India's contention that the approval of Board of Directors for such commercial agreements is not necessary, as it is a matter to be handled at the level of the Departmental Heads of planning and commercial with the approval of the Chief Executive. Evidently, there had been misuse of power by the Chief Executives from time to time, whatever be the circumstances responsible for this. The Committee, therefore, desire that in future, the justifications and implications of entering into 'Associateship' agree-

ments, if at all a need arises, should be considered and decided by the Board before seeking the prior approval of the Government. The Committee need hardly point out that the officers holding responsible positions should display absolute integrity and total commitment to the organisation, howsoever testing the circumstances may be. The Committee expect them to take a principled stand in such situations in public interest and also in the overall interests of the organisation.

12. For international operations where operations by the non-scheduled carriers are considered necessary, 5% royalty payment is generally sought by Air India as compensation. The Committee regret to observe that no royalty payment was collected from the non-scheduled private operators till March 1981 although the estimated loss to Air India from January 1975 to March 1981 due to carriage of passengers by these operators works out to be Rs. 233.52 lakhs. In this connection, during evidence, when asked whether Air India claimed royalty compensation from non-scheduled operators for their operations during 1975 to 1981, the Managing Director, Air India stated that the question of claiming royalties from the private operators did not arise as they were allowed to operate in consultation with Air India and in the interest of carrying cargo out of India. Air India reportedly started pressing for royalties from 1978. The Committee would like to know as to why Government did not determine the royalties to be claimed from the private operators for the period from 1978 to 1981 as required under Section 18(1) (e) of the Air Corporations' Act and what action was taken against the persons found responsible for this lapse.

13. According to the formula for sharing of revenues for operating on the domestic sector, 55% of the revenues (lately 40%) earned by Air India are paid to Indian Airlines. The Committee feel that when Pushpak Aviation and Hums Air were permitted to operate scheduled air services in association with Air India during 1981-83, Air India ought to have claimed compensation on revenue sharing basis according to the above formula. This has not, however, been done. The Committee are astonished to note that Air India charged only a royalty of Rs. 1000 per flight from Pushpak Aviation and Rs. 500 per flight from Hums Air which, in Committee's view, is ridiculous. Even the Secretary, Civil Aviation was candid enough to admit during the course of evidence that in the case of Pushpak Aviation the royalty was less than even the fare of one passenger. Against a net revenue loss of Rs. 552 lakhs from April 1981 to July 1983, only a nominal royalty compensation of Rs. 11.95 lakhs was recovered from these airlines. The Committee have been informed that no reasons have been recorded on Air India's files for claiming low level of royalty compensation. The reasons are, however, not difficult to understand when a private party is given undue advantage at the cost of the Corporation. According to the Secretary,

Civil Aviation, "so far as the terms of agreement with the private airlines are concerned, the Government does not come into the picture and it is entirely for the Air India Board to consider it." The Committee feel that the Government cannot absolve themselves of the responsibility in this matter. They should have examined the justification of the terms and conditions of the agreement before according their approval.

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

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

NEW DELHI ;

24, April, 1989.

4, Vaisakha, 1911 (Saka)

VAKKOM PURUSHOTHAMAN,

Chairman,

Committee on Public Undertakings.