

SEVENTEENTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1980-81)

(SEVENTH LOK SABHA)

TRACK FITTINGS

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 74th Report (Sixth Lok Sabha)]



सत्यमेव जयते

Presented in Lok Sabha on.....

Laid in Rajya Sabha on.....

LOK SABHA SECRETARIAT
NEW DELHI

March, 1981/Phalguna, 1902 (S)

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CORRIGENDA TO THE SEVENTEENTH REPORT OF PUBLIC
 ACCOUNTS COMMITTEE (SEVENTH LOK SABHA).

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
13	2	3	panrol	pandrol
		16	co-relate	correlate
16		9-10	<u>For</u> "cation of provisions...city"	<u>Read</u> "actual production exceeds the licensed/ registered/approved capacity,
24		17	reiteratd	reiterated
25		17	requisite	requisite
30		11-12	Delete the words "had from been negotiated with bottom reference to the rate."	

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PUBLIC ACCOUNTS COMMITTEE

(1980-81)

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Shri Chandrajit Yadav

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1. Shri H. G. Paranjpe—*Joint Secretary.*
2. Shri D. C. Pande—*Chief Financial Committee Officer.*
3. Shri T. R. Ghai—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Seventeenth Report on action taken by the Government on the recommendations of the Public Accounts contained in their 74th Report (Sixth Lok Sabha) on Track Fittings relating to the Ministry of Railways (Railway Board). The 74th Report dealt with a case of procurement of pandrol clips and modified loose jaws by the Railways from a Calcutta firm viz. M/s. Guest Keen Williams Ltd. The Committee (1977-78) had recommended that the whole case, which had wider ramifications, required to be probed in depth with a view to fixing responsibility for the lapses on the part of various authorities. In this Action Taken Report, the Committee have expressed their unhappiness over the Ministry of Railways' response to the earlier recommendations and have reiterated the demand for a thorough probe in the matter.

2. On 20 August, 1980 the following 'Action Taken Sub-Committee' was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the PAC in their earlier Reports:—

CHAIRMAN

1. Shri Chandrajit Yadav.

MEMBERS

2. Shri K. P. Unnikrishnan
3. Shri K. P. Singh Deo
4. Shri V. N. Gadgil
5. Shri Satish Agarwal
6. Shri N. K. P. Salve.

3. The Action Taken Sub-Committee of the Public Accounts Committee (1980-81) considered and adopted the Report at their sitting held on 2 March 1981. The Report was finally adopted by the Public Accounts Committee (1980-81) on 11 March, 1981.

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

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

NEW DELHI;
12 March, 1981

21 Phalguna, 1902 (Saka)

CHANDRAJIT YADAV.
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations of the Committee contained in their 74th Report (Sixth Lok Sabha) on Track Fittings which was presented to Lok Sabha on 20 April, 1978.

1.2. Action Taken Notes on all the 17 recommendations contained in the 74th Report have been received from Government and these have been broadly categorised as follows:—

(i) Recommendations or Observations which have been accepted by Government.

S. Nos. 1-2, 4-5, 10 and 17.

(ii) Recommendations or Observations which the Committee do not desire to pursue in the light of the replies received from Government.

S. Nos. 3(i), 3(iii), 3(iv), 8, 9, 15 and 16.

(iii) Recommendations or Observations replies to which have not been accepted by the Committee and which require reiteration.

S. Nos. 3(ii), 11—13 and 14.

(iv) Recommendations or Observations in respect of which Government have furnished interim replies.

S. Nos. 6 and 7

1.3. The Committee will deal with the action taken on some of their recommendations as under:

Improper assessment of the requirements of pandrol clips and failure to make a deeper study of the market trends before entering into advance commitments

[S. No. 3(ii)—Para 1.90(ii)].

1.4. While dealing with the question of assessment of requirements of the pandrol clips for placing a purchase order, the Committee had in para 1.90(ii) of their 74th Report observed as under:—

"The other serious lapse which has caused considerable concern to the Committee is the manner in which the re-

quirements for two years, namely, 1974-75 and 1975-76 were clubbed together. It is noted that the requirements for the year 1974-75, which had originally been assessed as 33.60 lakhs in March/April 1974, were on a reassessment made in August 1974 in the context of drastic reduction in the allocations and non-receipt of sleepers, reduced to just 6.68 lakhs only. However, for placing the order on the firm the requirements for the year 1975-76 were assessed as 22.21 lakhs and an order for supply of 28.40 lakhs pandrol clips was negotiated with the firm to cover up the requirements of both the years 1974-75 and 1975-76. The advance ordering of such a large quantity of 28.40 lakh pandrol clips in November 1974/February 1975 (when the actual requirements for 1974-75 were assessed at that point of time to be only 6.68 lakh clips and the corresponding requirements of the Modified Loose Jaws for 1975-76 were yet to be covered) resulted in heavy overstocks which were not required for urgent track programmes of the Railways. The Railway Board have stated that clubbing was done keeping in view the fact that the firm had quoted a rate for a minimum of 31 lakh numbers. Secondly, since their capacity was higher any reduction in quantity would have resulted in an increase in rates. The Committee are not convinced with the explanation for ordering 28.40 lakh clips as requirements for the two years viz. 1974-75 and 1975-76. The Committee have come to the conclusion that the requirements for 1975-76 were inflated and sought to be covered in advance for the benefit of the firm.

Besides, by clubbing the two years' requirements at that particular time the Railways failed to take any advantage of the falling prices of steel. The firm had been the sole supplier and the Railways were the sole purchaser and as such the quantity to be ordered as well as the rates could have been negotiated keeping in view the actual requirements of clips for the Railways and the prevalent special prices, as had been the practice in the past. The Railway Board was aware that there was fall in steel prices during this period through opening of the tenders for special steels during January 1975 prior to the approval of the Tender Committee's recommendations by the competent authority. The quantity of clips actually ordered should have been restricted to cover the immediate requirements for 1974-75 only. For the rest of the

requirements for 1975-76 fresh rates could have been negotiated by taking advantage of the fall in prices. It is relevant to point out in this connection that in reply to the question as to why the negotiations were not confined for requirements for 1974-75, the Member Engineering stated 'it did not strike us'. It is also significant to note that the Railway Board had at that point of time yet to issue tender enquiry and finalise orders for modified loose jaws required to be used in track along with those clips during 1975-76 and these were ordered only in June 1975.

Moreover, the price differential between the rates paid for the last contract of September 1973 and rates negotiated and finalised in November 1974 was so glaring that even in the normal course the Railway Board should have made a deeper study of the market trends before entering into advance commitments for their future requirements, which could not at all be considered emergent or even urgent. Unfortunately no attention was paid to this aspect and the firm which was the sole supplier of the item, exploited the situation to its own advantage. The extra burden on the Railway exchequer as a result of the unwarranted decision to go in for advance procurement of pandrol clips for 1975-76 is not susceptible of quantification but judging by the amount of rebate which the firm was obliged to grant in the case of the contract for modified loose jaws (which case is also dealt with in a later section of this Report) it can be inferred that the amount involved was substantial. The Committee cannot but deprecate such injudicious decisions which were not in the interest of the Railway and were to the benefit of the supplier and which give rise to a suspicion of the bonafides of the concerned authorities."

1.5. In their action Taken Note dated 28 February, 1979, the Ministry of Railways (Railway Board), have stated:

"Procurement of more than one year's requirement of Railways fittings at any one time is not unusual as in the case of fish plates required by Railways, 3 years' requirements were clubbed together and ordered on Durgapur Steel Plant. The following are some of the reasons which had

compelled the Railway Board to club the requirements of 1974-75 and 1975-76 for placing orders:

- (a) The firm had quoted a rate for minimum quantity of 31 lakh pieces and had we ordered a much smaller quantity of only 6.68 lakh pieces required for 1974-75, the rate per piece would certainly have been higher because the firm had a manufacturing capacity of about 20 lakh pieces per annum and their overheads would have had to be distributed on a smaller quantity resulting in their raising the prices.
- (b) In terms of Clause 23 of the Collaboration Agreement between M/s. GWK and the Patent holders of the Pandrol Clips, the firm was precluded from manufacturing pandrol clips for a period of 5 years after conclusion of the agreement (Dec. 75). It was only in April 1977 that M/s. Pandrol Ltd. released M/s. GWK Ltd. from the obligation stipulated under this clause. In 1974-75, therefore, the fact that there would be no supplier of pandrol clips indigenously beyond December '75 had also to be taken into account. Had procurement action for 1975-76 requirements been taken independently after 1-4-1975 as suggested by Audit, the order would have been placed in the later half of 1975, leaving inadequate time to the firm to complete the order before their collaboration Agreement expired in December '75. At this stage it may be mentioned that even though the Indian patent for pandrol clips as a component had expired in May '75, the foreign firm also had another patent for the entire assembly of the track of which pandrol clip was only one part. The patent for this assembly including the pandrol clip was current upto 6-7-79. Use of pandrol clips beyond December 1975 in the track assembly on the Railway would have infringed the patent for the assembly as a whole and the railways would have been put to a great predicament if they did not get adequate quantities of pandrol clips from the firm before the expiry of collaboration agreement. It may be added that the firm agreed to our use of pandrol clips independent of the assembly patent only in December '77.
- (c) Advance planning and procurement of trade components is usually done taking into account the availability of funds and track renewal programme chalked out for

the financial year. The fact that the fittings could not be utilised fully during the year itself due to certain other constraints such as non-availability of other matching components, cannot lead to the conclusion that the original procurement planning was faulty. Audit have pointed out that quite a large number of pandrol clips were available as spill over after 1976-77. This was due to:—

- (1) Non-supply of modified loose jaws by the firm on which orders had been placed in June 1976.
- (2) Less production of Prestressed Concrete Sleepers than what was anticipated.
- (3) Supply of 4.54 lakhs and 6.10 lakhs of steel through sleepers in 1974-75 and 1975-76 years by Durgapur Steel Plant as against a capacity of about 10 lac nos. of sleepers per annum; and
- (4) Giving up cast iron sleepers for use with Pandrol clips for technical reasons.

It is, therefore, submitted that the decision taken by this Ministry for advance procurement of Pandrols required during 1975-76 was for the benefit of the Railways and not for the benefit of any firm. It is further submitted that the 1975-76 requirements were not inflated but were computed fairly accurately with the information available with the Ministry at that point of time.

M/s. GWK who were placed a contract last in the series, when the pandrol patent was current under contract No. 74/W(TM)/1/1 dated 15-2-75 for the supply of the 28.4 lakh nos. of pandrol clips completed their supply of the contracted quantity in full by December, 1975. On 1-4-76 the Railways has a stock of about 33.6 lakh nos. of Pandrol Clips.

Pandrol clips are used on Indian Railways as component of elastic fastening system on concrete steel, cast iron and wooden sleepers. On steel sleepers, pandrol clips are used in conjunction with modified loose jaws. A further contract for supply of 10.5 lakh nos. of modified loose jaws was placed on various firms in July, 1976. The supply of modified loose jaws against July, 1976 contract has not yet materialised as the firms have not yet been able to produce the material according to the specification.

Pandrol clips against stock as existed on 1-4-1976, therefore, continued to be available with the Railways till August, 1978 due to their less consumption mainly owing to the following reasons:—

- (i) Modified loose jaws beyond the stock which was available on 1-4-1976 could not become available for use with pandrol clips on steel sleepers.
- (ii) The supply of concrete sleepers could not come up to the expectations.
- (iii) The use of pandrol clips on cast iron sleepers was discontinued as the assembly did not give satisfactory performance in service.
- (iv) The pace of introduction of pandrol clips on wooden sleepers all along these years remained rather slow."

1.6. Commenting on the action taken note furnished by the Ministry of Railways (Railway Board) the Audit have stated:

"There was no reference in the Tender Committee Minutes that it decided upon the large order on consideration that the collaboration agreement of firm 'A' was coming to a close by December, 1975 and there would be no supplies thereafter from this firm."

1.7. In this connection, the Ministry of Railways (Railway Board) have further stated:

"It may be stated in this context that the fact of the collaboration agreement of the suppliers coming to a close by December 1975 was well known to all concerned. That there was no reference in the Tender Committee minutes to this aspect of the matter was apparently an omission which has occurred because the Tender Committee had mainly to concentrate on the aspect of the determination of the price and the quantity to be ordered taking into account the firm's quotation. The position, however, remains that the collaboration agreement was coming to a close by December 1975 and as may be seen from the Railway Board's further remarks under para 3(iv) of this reply, no supply of an elastic fastening has so far become available from any other source after December, 1975."

1.8. In a note dated 1st August, 1979, Audit have further pointed out as under:

“In view of the huge stocks left over from the 1975 contract for supply of 28.40 lakhs clips, need for further procurement by the Railway Board arose only during 1978. Orders were placed on 5 firms including M/s. GKW (50,000 Nos), in September 1978 at the rate of Rs. 6 per piece against the last purchase rate of Rs. 9.08 per piece from M/s. GKW. So far only M/s. GKW have effected supplies and supplies from other firms are still in developmental stage. A further tender was opened on 22-11-1978 for procurement of 27 lakhs clips to meet 1978-79 requirements and the rates received from six firms ranged between Rs. 6.55 and 21.00 per piece. After negotiations, a rate of Rs. 8.24 per piece was counter offered by Ministry of Railways and the same rate was accepted by four of the tenderers including M/s. GKW and orders were accordingly placed on 11-4-1979 on all of them.

Thus it will be noticed that this item was subsequently supplied by M/s. GKW at a much lower rate (Rs. 6/- in 1978 and Rs. 8.24 in 1979) when compared to the rate of Rs. 9.08 commented in the Audit para leading to the inevitable conclusion that the price of the earlier supplies were highly jacked up. It will be relevant to point out that this lower rate has been offered although nearly 4 years have elapsed and escalations on all items have taken place in these years.”

Assessment of the requirements of modified loose jaws made by the Tender Committee

(S. Nos. 11—14—Paras 1.135—1.138).

1.9. In regard to the assessment of the requirements of the modified loose jaws made in February, 1975 by the Tender Committee before placing an order on M/s. Guest Keen Williams Ltd., the Committee had in paragraphs 1.135 to 1.138 of the 74th Report made the following observations:—

“1.135. The Committee find that in terms of an agreement entered into with M/s. Guest Keen Williams Ltd., the Railway Board were committed to purchase the modified loose jaws (a fastening used with steel sleepers) for a period of 4 years ending in May 1975. The firm was the sole supplier of this item from them. The requirements of the modified loose jaws were estimated in February 1975 as 9.46

lakhs pieces for 1974-75 and as 16 lakh pieces for 1975-76. In February 1975 the Railway Board had also decided that in view of the impending expiry of the agreement in May 1975, only 9 lakh pieces of modified jaws representing the requirements of 1974-75 only be purchased from this firm and for the requirements of 1975-76 open tenders should be floated. For the supply of 9 lakh loose jaws negotiations were held with the firm in April 1975 and the firm quoted a rate of Rs. 7.67 per piece for a quantity of 9 lakh pieces and a rate of Rs. 7.55 per piece for a minimum order of 13 lakh pieces of jaws corresponding to a particular specification known as Alteration No. 2. The Tender Committee made recommendations in May 1975 for placement of orders for modified loose jaws on M/s. Guest Keen Williams Ltd. at Rs. 7.50 per piece and also for increasing the quantity of modified loose jaws from 9 lakh to 13 lakh pieces to cover partly the requirements for 1975-76 also.

- 1.136. The Committee's examination has revealed that the Tender Committee's recommendations both in regard to the negotiation of a rate of Rs. 7.50 per piece, which was 50 per cent higher than the previous rate and the enhancement of quantity of loose jaws from 9 lakh pieces (as decided by the Board earlier) to 13 lakh pieces were not warranted by the conditions obtaining at that point of time.
- 1.137. In so far as the enhancement of quantity of jaws from 9 lakh to 13 lakh pieces is concerned the main reason which appears to have influenced the Tender Committee was that a marginally low price had been quoted by the firm for a minimum of 13 lakh pieces against 9 lakh pieces for which the tender was called. The firm which was the sole supplier of the item was thus able to impose its own conditions and the railways had only to acquiesce in the terms quoted by the firm.
- 1.138. The Committee are not at all convinced with the arguments now advanced by the Railway Board that the order for the loose jaws was enhanced keeping in view the expected increase in the supply of steel through sleepers in the first quarter of 1975-76 and because the procurement of the loose jaws for 1975-76 proper would have taken a long time. These arguments easily fall through when the pace of consumption of the loose jaws

on the Railways is taken into account. According to Railways' own admission only about 60 per cent of the planned quantity of the steel through sleepers, with which these jaws were to be used, had been received during the period 1973-74 to 1975-76. Further as pointed out in the Audit paragraph a review of the consumption of loose jaws on the various railways made by the Board in October 1976 had revealed that the entire quantities of loose jaws supplied to the Western Railway (4.05 lakhs) and Central Railway (1.75 lakhs) had not been used at all till January 1976. The acquisition of a larger number of loose jaws at that point of time was thus not warranted by the needs of the railways. Moreover, since the future requirements of Railways were in any case to be procured from 1975-76 onwards by open tenders and not necessarily from this firm, there was no justification for making advance purchases in this manner."

1.10. In their Action Taken Note dated 28 February, 1979, the Ministry of Railways (Railway Board) have stated:

"Immediately after the expiry of the bilateral agreement with M/s. GWK in May 1975, the following orders were placed with six other firms for the manufacture and supply of modified loose Jaws:

S. No.	Contract No. & Date.	Supplier	Quantity
1.	76/W(TM)/22/4/1 dt. 26-5-76	M/s. HISCO, Calcutta	Nos. 8,00,000
2.	76/W(TM)/22/4/6 dt. 14-7-76	M/s. OSWAL, Raipur	50,000
3.	76/W(TM)/22/4/2 dt. 14-7-76	M/s. Singh Engg. Kanpur	50,000
4.	76/W(TM)/22/4/3 dt. 14-7-76	M/s. Ajants Iron, Delhi-Shahdra	50,000
5.	76/W(TM)/22/4/4 dt. 14-7-76	M/s. Bhushan, Chandigarh	50,000
6.	76/W(TM)/22/4/6 dt. 14-7-76	M/s. Star Steel Biroda	50,000

None of the firms have so far supplied the material even after a lapse of nearly 2 years from the time of placement of the orders and their samples also did not come upto specifications prescribed in the contract. During this period, the Railways' requirements were being met from the supplies taken from M/s. GWK upto January 1976

and progress on other track works involving the use of this component has come to a standstill.

It may be pointed out that finalisation of the Tender Committee minutes on 23rd May, 1975 was not done in a hurried manner. Action for procurement had been initiated in February 1975 itself and negotiations were held on 2nd April, 1975. In the normal course, the Tender Committee finalised their recommendation on 23rd May, 1975. It may be pointed out further that as explained in the reply to para 1.139 and 1.140 the prices for the supply of modified loose jaws had been negotiated by the Tender Committee taking into account the downward trend in prices duly correlating the period of actual manufacture of modified loose jaws by the firm. Therefore, the final price for supply of spring steel fixed in a separate tender on 5th June, 1975 could not have been anticipated and would not have altered the price fixed by the Tender Committee in anyway. In the circumstances there were no shortcomings in the functioning of the Tender Committee."

1.11. The Committee are unhappy with the Ministry of Railway's response to their observations in regard to the manner in which the requirements of pandrol clips for two years, namely 1974-75 and 1975-76 were worked out for placing a purchase order on M/s. Guest Keen Williams Ltd. It has been stated by the Ministry of Railways that procurement of more than one year's requirement of Railway fittings at any one time was not an unusual practice. It cannot however be overlooked that the requirements of the pandrol clips for the year 1974-75 had been first reduced from 33.60 lakhs to just 6.68 lakhs in view of the drastic reduction in the allocations and reduced off-take due to short supply of sleepers. Further it has been pointed out by Audit that in view of the huge stocks left over from the 1975 contract for supply of 28.40 lakh clips, need for further procurement by the Railway Board arose only during 1978. This only goes to prove that the assessment of the requirements of clips for the year 1975-76 at 22.21 lakhs was not only unrealistic but also highly inflated without any relevance to the actual use for this item of the stores.

1.12. Similarly, in the case of procurement of loose jaws from the same supplier, viz. M/s. Guest Keen Williams Ltd., the Committee had come to the conclusion that the enhancement of quantity of loose jaws from 9 lakhs pieces (as decided by the Railway Board earlier) to 13 lakh pieces by the Tender Committee was not

warranted by the conditions obtaining at the point of time. The Tender Committee recommended in May 1975 for placement of orders for a quantity of 13 lakh pieces on the ground inter alia that during the negotiations held with the firm earlier in April 1975 for supply of 9 lakh pieces, it had quoted a marginally low price for a minimum of 13 lakh pieces. This was not a convincing reply and the Committee had observed that there was no justification for making advance purchases in this manner.

1.13. The Committee came to the conclusion that the inflated assessment in the above cases had apparently been done to benefit the firm by placing bigger orders at the prices dictated by the firm. In the circumstances, the Committee cannot but reiterate their earlier recommendations that there should be a thorough probe into the matter. The Committee desire that these cases may be specifically brought to the notice of the Minister and the probe should be done by a high powered independent body. The final outcome of the probe may be communicated to the Committee.

CHAPTER II

RECOMMENDATIONS OR OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

1.88. The Committee note that from 1969 onwards Railways were procuring pandrol clips from M/s. Guest Keen Williams Ltd., on a single tender basis. The pandrol clip was a patented item of a firm of U.K. and was being manufactured in India by M/s. Guest Keen William Ltd. under a collaboration agreement, which was valid till December 1975. The licence issued to M/s. Guest Keen Williams Ltd in terms of the collaboration agreement provided for the manufacture of 15 lakh numbers of pandrol clips by the firm annually. The Audit paragraph points out that orders were being placed by the Railways on the firm from time to time on the basis of negotiated rates and while negotiating the prices, it had been the general practice of the Tender Committee to judge the reasonableness of the prices with reference to prevailing prices of the raw material, namely, 19 mm diameter silico-manganese spring steel.

1.89. The Committee find that in May 1974 on the basis of assessment of requirements of pandrol clips for 1974-75 at 33.60 lakh pieces, the firm was asked to quote for supply of 21 lakh pieces. In June 1974 the firm quoted a rate of Rs. 9.38 per piece for the supply of a minimum of 30 lakh pandrol clips. It is further seen that in August 1974, the Railway's requirement of pandrol clips was reassessed in view of the financial stringency and the curtailment of track renewal programmes and it was estimated that the requirement of pandrol clips would be 6.68 lakhs for 1974-75 and 22.21 lakhs for 1975-76 making a total of 28.89 lakhs. On the basis of negotiations held in September 1974, the Tender Committee recommended purchase of 28.40 lakh pandrol clips at the rate of Rs. 9.08 per piece, which was about 62 per cent above the last contract rate of Rs. 5.58 of September 1973. The negotiated rate was approved on 30 January, 1975 and the formal contract was placed on 15 February, 1975 for 28.40 lakh pandrol clips for meeting two years' requirements.

[Serial Nos. 1 & 2, paras 1.88 and 1.89 of 74th Report of PAC
(Sixth Lok Sabha)]

Action Taken

1. In the context of modernisation of the railway track to take high density goods traffic and to achieve higher speeds in Express trains, the Railway Ministry undertook in the late Sixties large scale welding of rail joints, to form long welded rails/continuous welded rails. Such welding introduces complicated stress conditions in the rail which can be kept under control only by improving the rail to sleeper fastenings. The fastenings that had been in use for a century or more did not serve the purpose. Development of suitable fastenings has been engaging the attention of Truck Engineers and industries all the world over and M/s. Lockspike Ltd. of UK were successful in formulating an acceptable elastic fastening called in Pandrol clip. This was introduced for the first time in U.K. in the sixties and over a period, it had received universal acceptance.

2. On the Indian Railways too, some development activity was there, like the invention of certain I.R.N. clips; these in the ultimate analysis yielded to the superior quality of the pandrol clips. It must be emphasised that it is not just India alone that had adopted the pandrol clip, but many other developed countries as well. The arrangement that the Indian Railways had arrived at for the procurement of pandrol clips from the sole supplier namely, M/s. Guest Keen William Ltd. (G.K.W.) in 1969, should be viewed in this background. It would be in order to emphasise even at this stage that just inasmuch as G.K.W. was the sole supplier, the Indian Railways were the sole consumer and the product had no use for anyone else. Necessarily there was a process of negotiation every time an order was placed on the firm and the negotiations were based mainly in preference to the prevailing price of the raw material, namely, 19 mm diameter silico-manganese spring steel rounds. At no stage any attempt was made to co-relate it to the exact price at which the firm purchased the raw material. The prevailing price, being the last known price formed the basis to arrive at reasonable rate. The Tender Committee was called upon to check the reasonableness of the rate and not to arrive at the intrinsic rate. It was not a cost plus profit method of procurement. It was upto the firm to purchase the raw material from the market and undertake the responsibility of the risk of prices going up or down. Being short period contracts, from year to year, no price variation clause was provided.

Recommendation

The Audit para also highlights a serious lacuna in the working of the Industries (Development and Regulation) Act, 1951. From the information made available to them in connection with the paragraph under examination, it has transpired that there is no in-built mechanism to keep a watch on the industrial units to ensure that they do not exceed the licensed capacity. It is particularly unfortunate that this deficiency remained undetected for nearly three decades. In the opinion of the Committee, the very purpose of licensing would appear to have been defeated inasmuch as even if such a violation of the Act came to notice no penal action against the offending party could be initiated. Since the Ministry of Industry are now fully conscious of the loopholes, the Committee would like to recommend the urgent remedial steps be taken so that unscrupulous licensees are not allowed to exploit the lacunae in the relevant Act to their advantage with impunity.

[Serial No. 4, Para No. 1.91 of 74th Report of the PAC
(6th Lok Sabha).]

Action Taken

The views of the Committee are noted by the Government and urgent remedial steps to remove the lacunae in the relevant Act are under consideration.

[Ministry of Industry, Deptt. of Industrial Development O.M.
No. 23(5)/78-Engg. Ind., dated 12th Oct., 1978.]

Recommendation

The Committee further find that the collaboration agreement between the U.K. firm and M/s Guest Keen Williams Ltd. for the manufacture of pandrol clips, which was approved by the Ministry of Industry in 1967 did not carry a clause that payment of royalty will be restricted to licensed capacity plus 25 per cent thereof. No quantitative restriction on the firm's capacity was thus mentioned. In this connection the representative of the Ministry of Industry has explained that in the earlier agreements of this type such a stipulation was not made but the deficiency has since been rectified. In the letters now issued by the Secretariat for Industrial Approvals of the Department of Industrial Development conveying the approval for foreign collaboration presently a condition was imposed that the payment of royalty at the rate approved will be restricted to the specified licensed capacity plus 25 per cent in excess thereof. The Committee feel that it may be examined whether it would not

be worthwhile to issue general instructions to the effect that even in cases where such a stipulation has not been made in the agreement of foreign collaboration, the payment of royalty, etc. will be regulated according to the general principle, namely the licensed capacity plus 25 per cent excess production. The precise action taken in this behalf may be intimated to the Committee.

[Serial No. 5, Para No. 1.92 of 74th Report of the PAC
(Sixth Lok Sabha)]

Action Taken

The Reserve Bank of India have issued general instructions to their various offices *vide* their letter No. EC.CO.62/CALO. 71/77-78 dated the 16th August, 1977 (copy enclosed) that the provisions of the clause restricting the payment of royalty to licensed/registered/approved capacity plus 25 per cent of such capacity are also to be enforced in case of collaboration agreements which have been approved by Government prior to March, 1970, but in which the above restrictive clause was not stipulated.

[Ministry of Industry, Deptt. of Industrial Development O.M.
No. 23(5)/78-Engg. Ind., dated 12th Oct., 1979]

ANNEXURE

RESERVE BANK OF INDIA

Exchange Control Department

Central Office

Bombay

No. EC.CO.62/CALO.71/77-78.

16th August, 1977.

The Joint/Deputy/Assistant Controller,

Exchange Control Department,

Reserve Bank of India,

Bombay|Calcutta|Ahmedabad|Bangalore| Bhubaneswar|

Gauhati|Hyderabad|Jaipur|Kanpur|Madras|Nagpur|

New Delhi|Patna|Cochin.

Dear Sir,

Remittances of royalty under foreign collaboration agreements.

Please refer to paragraph 2 of Central Office Circular letter No. EC.CO.31/CALO.71-72 dated 13th May, 1972, regarding application of provisions of licensed/registered/approved capacity in case of collaboration agreements approved by Government prior to March 1970 but which did not stipulate the restrictive clause.

It has now been decided that the provisions of the clause restricting the payment of royalty to licensed/registered/approved capacity and upto a maximum of 25 per cent in excess thereof if cation of provisions of licensed/registered/approved capacity in case city, are also to be enforced in case of collaboration agreements which have been approved by Government prior to March 1970, but in which the above restrictive clause was not stipulated. You may, therefore, review such cases by calling for the particulars of production on which remittances of royalties under these agreements have been allowed in the past, along with a certificate from the Chartered Accountant of the Company concerned showing the position *vis-a-vis* the company's licensed/registered/approved capacity and adjust the amount of royalty allowed to be remitted in excess, if any, against future royalty dues. In cases where the future dues would not be sufficient to adjust the excess remittances or where the collaboration agreements have already expired, you may refer such cases to Central Office with full particulars.

Yours faithfully,
Sd/-
Deputy Controller.

Recommendation

The Committee feel that the whole matter appears to have under ramifications which require to be probed in depth with a view to fix responsibility for the lapses on the part of various authorities. Since the decisions in the case were taken by the Railway Board, the Committee desire that the investigation should be entrusted to a high-powered independent body.

[Serial No. 10, Para 1.97 of 74th Report of PAC (6th Lok Sabha)].

Action Taken

As explained in the reply to the observations of the PAC in paras 1.88, 1.89 and 1.90, the Indian Railways had undertaken in the late Sixties, the task of modernising the railway track and developing elastic fastenings which would suit the long/continuous welded rails. Attempts at developing designs for such fastenings

not having proved successful, the Railways went in for pandrol clips, a patented item of a firm in the United Kingdom for which a licence for manufacture had been granted to an Indian firm. As the collaboration agreement of the Indian firm was valid till December 1975, the Railways had necessarily to purchase these fastenings from the Indian firm, the price for supplies being negotiated from time to time. Viewed in its totality, the arrangements for obtaining supplies of pandrol clips and modernising the track to handle heavy density freight trains and super fast express trains have been very successful.

Consequent on the expiry of the collaboration agreement held by the Indian firm for supply of this track fitting attempts have been made to obtain supplies of pandrol clips from other suppliers but so far no reliable source of supply could be established. It has, therefore, to be appreciated that but for the fact that an assured source of supply of pandrol clips had been available all along from M/s GKW, the track modernisation programme could have suffered a serious set back.

In so far as the order for supply of pandrol clips placed in Feb. '75 is concerned, reference may be made to the detailed reply to the observations of the PAC contained in paras 1.88 to 1.90 of their Report. It is considered that the terms obtained from the supplier were the most favourable in all the circumstances of the case and in the best interests of the Railways. The Ministry of Railways, therefore, submit that. In view of the position explained in reply to the various observations of the PAC, there is no warrant for any investigation by a high powered independent body. Other remedial measures can be undertaken such as to ensure that such a situation does not repeat itself.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/74 dated 28-2-1979]

Recommendation

The Committee are unhappy to note that no alternative source for the supply of this vital track component has so far been developed satisfactorily despite a lot of developmental efforts made by the Research, Designs and Standards Organisation of the Railways. The supplies against the orders placed in March, 1976 on the firms other than the firm in question had not yet materialised because these firms have "yet to develop the required technology and other facilities for heat-treatment etc." The Committee would like the Railway Board to give every possible assistance to these upcoming firms so that they are able to meet the Railway's require-

ments satisfactorily and the Railways are not placed in such a situation as to having pay exorbitant prices to the same firm which was the only supplier and which obviously used their position to Railways disadvantage.

[Sl. No. 17, para 1.141 of 74th Report of PAC
(Sixth Lok Sabha)]

Action Taken

The design for the components was finalised by RDSO even before the expiry of the bilateral agreement with M/s G.K.W. in May 1975. Orders were also placed as submitted in reply to paras 1.137 and 1.138 on six other different firms. Though every possible assistance was given to these upcoming firms, they are still unable to meet the Railway's requirements satisfactorily.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-
PAC/VI/74 dated 28-2-1979]

CHAPTER III

RECOMMENDATIONS OR OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT.

Recommendations

1.90. During examination of the subject, the Committee have noted the following glaring lapses on the part of the Railway authorities who were responsible for making arrangements for the procurement of these pandrol clips:

- (i) As pointed out in the Audit paragraph during the period from September 1974 (when the price was negotiated) to 15 February, 1975 (when the contract was actually placed) there had been a steady fall in the market price of various steel materials and the tenders for special steels opened in the Railway Board's office on 7, 14 and 21 January, 1975 clearly indicated fall in prices ranging from 8 to 21 per cent as compared to previous year's contract prices. However, the Railway Board did not take notice of this downward trend in steel prices as they had negotiated the rate in September 1974 on the basis of the basic price of Rs. 4,850 per tonne for the silico-manganese spring steel, which had been quoted in the tender IS-13 opened on 27-5-1974. It has been argued that since the rate had already been negotiated in September 1974, there was no occasion to reopen the negotiations and the "sanctity of the tender had to be honoured". It has also been stated that neither the special steel for which tenders were opened in January 1975 nor the silico-manganese steel for which tenders were opened in March 1975 and in respect of which a falling trend in prices was indicated, was comparable to the raw material required for the manufacture of pandrol clips. Both these arguments are untenable for reasons stated below:

The Tender Committee's recommendation made in November 1974 could not be treated as final till it was finally approved by the Competent Authority and this approval

was accorded only on 30 January, 1975. The final contract was concluded with the firm on 15 February, 1975. Thus there was ample time to take stock of the situation emerging as a result of the falling trend in prices which was quite conspicuous. The Committee would not like to believe that the terms negotiated with the firm in September 1974 were irrevocable and sacrosanct. The argument that the special steel or the silico-manganese steel whose prices indicated a fall were not comparable to the raw material required for the manufacture of Pandrol clips is only an attempt to cover up the lapse by introducing an element of technicality. It has been admitted that reasonableness of the prices for pandrol clips quoted by the firm was being adjudged by the Railway Board with reference to price of silico-manganese steel, taking these rates as the 'rear-guide'. Though the price differential between the rates paid for the last contract of September 1973 and the rates finalised in November 1974 was glaring and though the downward trend in prices of steel was noticeable, and the concerned authorities were cognisant of this fact, they took no corrective action whatsoever. The Committee have no doubt that the Tender Committee have failed to safeguard the financial interests of the Railways in this matter and given undue benefit to a private party. The Committee desire that the responsibility for the lapse should be fixed.

- (iii) Another disturbing feature of the transaction was the advance inspection of the pandrol clips ordered by the Railway Board in November/December 1974 and carried out by the Research, Designs and Standards Organisation in the premises of the supplier firm much before the contract was actually finalised in February 1975. Not only in this case but in the case of modified loose jaws also advance inspection had been ordered much before the contract was finalised in June 1975. The Committee have been informed that such arrangements for the advance inspection of the stocks to be purchased were sometimes made in the case of long lead items but the procedure followed in the case of pandrol clips/loose jaws, which were not long lead items, was unprecedented as there had been no such instance earlier. The Committee were surprised to learn that this arrange-

ment had been ordered by an officer of the rank of a Joint Director and this aspect of the advance inspection had also not been brought to the notice of the competent authority. Nor were financial and legal authorities consulted in the matter. The Financial Commissioner for Railways has gone on record, when asked by the Committee, whether Finance should have been consulted before ordering inspection, that "I should imagine that". The Committee cannot help suspecting that advance inspection was collusive and would like this matter to be probed with a view to fixing responsibility.

- (iv) Yet another lamentable feature which has come to light is that after having entered into an exclusive arrangement with M/s. Guest Keen Williams Ltd. for the supply of the pandrol clips for a period of seven years, the Railway Board/Research, Designs and Standards Organisation do not appear to have made any concerted effort to develop an alternative source for this supply. It has been stated that since the pandrol clip was a patented item no other source could be developed during the period of the currency of patent which expired only in May 1975. *Prima facie* this appears to be a facetious argument in that the arrangement entered into with the firm did not obviously preclude the Research, Designs and Standards Organisation from developing their own design for the manufacture of this vital component during currency of the patent. And keeping in view the fact that it required 7 to 8 years to develop a suitable design for an elastic clip of the kind required by the Railways it was all the more necessary for the RDSO to have paid special attention to this aspect of the matter. On their admission the clips so far designed by RDSO were suitable only for concrete sleepers and even they had not yet been found suitable after trials. This failure on the part of a premier Research Organisation of the Railways has to be deplored. The Committee would like to know how the Railways have managed to get adequate supplies of this vital component after the agreement with the firm came to an end in December 1975.

Action Taken

3(i) The price for the last instalment of supply of pandrol clips was negotiated with the firm in September '74, but the actual order was placed in February '75 for meeting 2 years requirements. The first lapse that has been pointed out was the omission to take into account the fall in price of the raw material between the time of negotiations in September 1974 and placement of order in February '75. It would be in order to clarify here that normally when a Tender Committee finalises its recommendations, the order is placed soon thereafter within a couple of weeks or so. Had such an order been placed in this event as well (i.e.) soon after September '74, it is apparent that the Audit would have found no fault for the reason that the September '74 negotiations were based on a tender for the supply of silico-manganese spring steel (Tender No. IS 13) opened on 27th May, 74. It would be interesting to observe that normal processes take place between the time of recommendations by the Tender Committee and the acceptance by the competent authority and it might be emphasised here that in the normal practice, the competent authority goes by the tender committee's recommendations and accepts it and does not again attempt to change the rates unless there be to his immediate knowledge anything calling for such a change. The competent authority had no reason whatsoever to assume at any stage that there was any falling trend. As a matter of fact, the entire negotiations held on 16 September, 1974 and finalised by the tender committee on 22 November, 1974 were submitted to the Minister for Railways for approval on 30 November, 1974. The traumatic experience that the Indian Railways underwent during the December 1974 to January/February 1975 when the late Minister of Railways was the victim of a dastardly bomb attack and died leaving practically a large volume of papers untouched and with a vacuum in regard to the competent authority who could fulfil his functions delayed the placement of the order and it will be appreciated that within about 28 days of the expiry of the then M.R., the Minister of State for Railways, with due powers given to him, approved the Tender Committee's recommendations on 30 January, 1975 and the order was placed on 15 February, 1976. After the death of the Minister the papers were returned on 7 January, 1975 and again put up on 8 January, 1975 with the points that the validity was expiring on 15 January, 1975 and resubmitted on 27th January, 1975 after obtaining extension of validity upto 31 January, 1975. The Tender Committee as such had no opportunity whatever to deal with the case at that stage and there is, therefore, no question of any lapse on the part of the Tender Committee. The Audit statement that there was ample time to take stock of the situation

cannot be accepted. After all, the Audit are comparing a tender received in the Stores Directorate entirely unconnected with this particular kind of work to draw a parallel and to state that there was a reduction of price, which should have been taken advantage of. The Tender Committee went by what was deemed to be a prevailing price i.e. the price that was made available to them when they were conducting negotiations. The price of raw material as on May '74 was the last price available to them when they were negotiating. It would, therefore, be seen that the Tender Committee had done full justice in the manner in which they had functioned and had taken full care of the Railways' interest. In the recommendations they have reasoned out this aspect of price of raw material and have been guided by an actual quotation of M/s. Mysore Iron & Steel Works (a Govt. Undertaking). The reduction in the price of alloy steel as distinct from Silico-manganese steel between September 1974 and February 1975 does not give any idea to the Tender Committee at all for the reasons that once the Tender Committee makes its recommendations, it ceases to have any interest or knowledge of the tender, the respective Directorates going through the formal motions of submission of the recommendations, routing it through the Board and obtaining the Competent Authorities' approval and thereafter to place the order. There was thus no failure on the part of the Tender Committee.

In this connection it may be mentioned that a Tender Committee is constituted to consider tenders received in response to each tender notice and once they consider the tenders and make their recommendations, after such negotiations as may be considered necessary, the tender committee ceases to exist so far as that tender is concerned. In the present case, therefore, once the tender committee concluded their negotiations with the supplier and submitted their recommendations in November 1974, they ceased to be in the picture so far as this particular case is concerned.

3 (iii) The Audit has questioned the Board (in particular the officer of the rank of a Jt. Director) having taken the decision to order advance inspection of pandrol clips and modified loose jaws; for the former the Tender Committee had finalised its recommendations in November '74 and the order placed in February '75 and for the latter the contract was finalised in June '75. A further examination indicates that as early as in July 1974, the RDSO (Inspecting Organisation) pointed out that the then current order were expiring on 30-8-1974 for pandrol clips and on 4-3-1975 for modified loose jaws and sought a clarification of Board's intentions. This was replied on

26-7-1974 indicating the quantities of pandrol clips and loose jaws that were under consideration for manufacture. The order regarding advance inspection was a simple innocuous letter from the Jt. Director, Railway Board to the Director, RDSO, which begins with the preamble "further to the discussion we had regarding Inspecting staff for the Bangalore factory....." It will be apparent, therefore, that the emphasis was on the continuation of the Inspecting Staff at Bangalore and very much a simple matter of consideration for the staff who were already at Bangalore and who were to be continued. There was no distinct letter from the Railway Board to the firm for any such facility. Even in this letter, due care had been taken to stipulate that inspections, as a continuous process, may be maintained and no inspection certificates should be issued till the contracts are executed. In fact, inspection certificates have to stipulate the consignee particulars also and no such information had been furnished either to the firm or to the Inspecting Organisation till the orders were finalised. It is, therefore, reiterated that no benefit to the firm as such as was intended and it was a case of little more zeal in continuing the staff in Bangalore. It is, therefore, considered that the question of further probe and fixing the responsibility does not arise.

3(iv) The elastic clip which forms an integral part of the elastic system for holding rail to the sleeper is required to be developed as a composite system and cannot be taken up in isolation.

Basically, the requirements of a good elastic fastening system are—

- (a) Adequate mechanical strength to hold the rail and the sleeper together.
- (b) Capacity to absorb vibrations & energy.
- (c) Should have as few components as possible and these components should retain their holding power during their full service life.

The steps normally required for the development of an efficient elastic fastening system are—

- (a) Evolution of a new concept of shape & system (most of the existing shapes and systems are patented).
- (b) Working of the design details & specifications of all the components.
- (c) Conducting laboratory tests on a few samples. The laboratory tests should simulate the working conditions of the component for their full period of service life.

- (d) Possible alteration to the system as a result of laboratory tests
- (e) Limited field trials
- (f) Extensive field trials
- (g) Standardisation and mass production. Mass production of elastic fasteners calls for highly sophisticated technology. The clip/spring/flat should possess not only high ductility but also fatigue withstanding properties and dimensional accuracies. This is achieved by uniform composition of raw material, careful rolling of bars/flats from the billets, forming of shapes in precise dies and heat treatment in furnaces with proper temperature control. The quality control measures at all stages of manufacture have to be very strict for which adequate laboratory and testing facilities are invariably required in the factories. There are not many firms in India even today who have the requisite resources for the production of elastic fastenings.

Even in the developed countries having sophisticated facilities of full scale simulation tests in the laboratories and superior mass production technology, it takes several years for developing an elastic fastening system. In a developing country like India with little testing facilities, the path of development of a new fastening system has necessarily to be tortuous and time-consuming.

From 1960 RDSO were seized of the problem of producing elastic fastening indigenously. The first step in this direction was to evaluate elastic fastening system developed abroad and choose one, which was suitable for Indian conditions and could be indigenously manufactured. The investigations comprised of theoretical evaluation, laboratory tests on imported pieces and field trials to the extent possible. As a result of these investigations, out of the various elastic fastenings of foreign origin such as pandrol clip, DS 18 spikes, RN clip, CIL clip, K type fastener KOWA clip etc. pandrol clip was chosen for adoption on Indian Railways. Its manufacture in India gave a great phillip to the track modernisation programme of Indian Railways and at the same time saved considerable amount in foreign exchange that would have been spent for outright import.

Simultaneously, work on the development of a purely indigenous elastic system was also continued. In the early years, no headway could be made for want of adequate testing facilities. A hydraulic pulsator imported from Germany was installed in RDSO in 1970 to conduct fatigue and other tests on fasteners by simulating

wheel loads. Vibrogir machine which simulates high frequency vibrations, imported from Belgium was installed in 1976. In the absence of full scale simulation test facilities in the laboratory in the early years, a few fastenings developed in RDSO could not come up to the expectation when subjected to actual field conditions. The designs have been further modified. Presently 5 to 6 types of elastic fastening systems such as IRN 304, Sigma clips, elastic spring, steel clips with double coil washer, IRJ clip, TM(I) fastener etc. for use with different types of sleepers are under various stages of tests and trials. None has, however, reached a stage where mass scale production can be undertaken.

It may be mentioned that many of the advanced countries have not yet developed their own elastic fastening system. They are using fastenings imported from abroad or being manufactured in their countries under licence from their patentees.

From the foregoing it would be appreciated that RDSO with their limited resources have not spared any effort in indigenous development of a suitable elastic fastening system. It will, however, take a few years more before one can say with confidence that one or more of the elastic fastening systems under development can be adopted for general use.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/74 dated 28-2-79]

Recommendation

The Committee are equally surprised at the action taken by the Ministry of Industry in regularising the excess production, which was clearly a violation of the terms of the licence, on the grounds of socio-economic benefit knowing fully well that the collaboration agreement of the firm with their U.K. Principal had already expired and the firm had ceased to manufacture this item. It is not, therefore, clear as to what socio-economic objective of the Government was sought to be served in the opinion of the Ministry of Industry by recommending ex-post-facto regularisation of excess production of this firm at that point of time.

[Serial No. 8, Para No. 1.95 of 74th Report of the PAC
6th Lok Sabha]

Action Taken

It was observed that the entire production of the company was meant for the Ministry of Railways to meet their essential requirements and that if the Company had not produced the extra Nos., the Railway programme would have suffered. The Railway Ministry had requested this Ministry for the regularisation of excess production for the years 1973, 1974 and 1975. Accordingly, the case was consi-

dered by the LC-cum-MRTP Committee who recommended the regularisation of the excess production during the years 1973, 1974 and 1975 and this was agreed to by Government. The Ministry of Railways were advised accordingly under our letter dated 9-12-1976.

[Ministry of Industry, Department of Industrial Development O.M. No. 23(5)/78-Engg. Ind. dated 12-10-1978.]

Recommendation

Further, the circumstances under which the remittances on account of royalty payments on the excess production of the firm were permitted by the Reserve Bank of India require to be looked into.

[Serial No. 9, Para 1.96 of 74th Report of the PAC
6th Lok Sabha]

Action Taken

In the case of M/s. Guest Keen Williams Limited, Calcutta, the collaboration with M/s. Lockspike Limited, London for manufacture of Lockspikes, and Pandrol Rail Clips was approved by the Government of India on the 5th January 1968, vide, Ministry of Industrial Development and Company Affairs Letter No. 11(7)/67-EI(M) dated 5th January 1968. The relative collaboration agreement dated 11th December 68 was taken on record vide the Ministry's letter dated 22nd February, 69. These documents were forwarded to the Reserve Bank of India for further action in regulating remittances towards royalty etc., Government's approval for the collaboration did not mention any restriction as to the registered or licensed capacity for production. The remittance applications were dealt with by the Calcutta Office of the Reserve Bank of India in terms of the Government approval and the rules then in force and remittances of royalty were allowed without any scrutiny from the approved capacity or production angles.

2. Prior to March 1970, the authorised/approved production was not mentioned in the letters issued by the Government approving the collaboration proposal or in the relative Collaboration Agreement. The revised procedure whereby approved/licensed capacity was specifically mentioned in the approval letters as also the Agreement came into force from March 1970. From this date in all our approvals and agreements taken on record, it is ensured that the licensed capacity would be included and also provision for production upto 25 per cent in excess would be permitted. In dealing with the remittance application of M/s. Guest Keen Williams the Reserve Bank of India was acting in accordance with the checks and procedures then in force.

3. In 1976 and 1977, the general question as to the manner in which pre-March 70 cases could be regulated was examined by the Reserve Bank of India in consultation with the Department of Economic Affairs. As a result of these discussions, the Reserve Bank of India issued circulars to all their offices requiring them to review past cases. A copy of this circular is enclosed. It would be possible for the offices of the R.B.I. to review remittances relating to production in excess of the approved capacity. As can be seen from the circular, the Reserve Bank of India would take action to adjust the amount of excess royalty allowed to be remitted against future royalty dues. Where future dues are not sufficient, such cases would have to be examined with reference to the mode of recovery or adjustment.

4. In terms of the circular referred to above, the Reserve Bank of India is reviewing the case relating to remittance by M/s. Guest Keen Williams Limited. It may, however, be added that since Government of India have already taken a decision to regularise the production of the company on the ground that the entire production was meant for the Ministry of Railways and that in the absence of this production, the Railway programme would have been adversely affected, it may not be possible for the Reserve Bank of India to effect any recovery or adjustment. Further, it may also be added that during the currency of the collaboration agreement (signed on 11 December, 1968 for a period of 7 years) the company had supplied 90,42,311 numbers of Pandrol clips whereas supplies at the rate of 15 lakh numbers plus 25 per cent over a period of 7 years would have amounted to 131,25,000. This would imply that over the entire collaboration period, the company's production was well within the licensed capacity plus 25 per cent thereof though in some years the production had exceeded 125 per cent of licensed capacity. This would indicate that since the production over the period was within the licensed capacity, no recovery or adjustment would be feasible.

[Ministry of Finance, Deptt. of Economic Affairs,
O.M. No. 1/16/78/EF(Inv) dated 18-10-78]

ANNEXURE

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE BOMBAY**

16th August, 1977

No. EC. CO. 62/CALO. 71/77/78.

The Joint/Deputy/Assistant Controller,
Exchange Control Department,
Reserve Bank of India,
Bombay/Calcutta/Ahmedabad/Bangalore/
Bhubaneshwar/Gauhati/Hyderabad/Jaipur/
Kanpur/Madras/Nagpur/New Delhi/Patna/Cochin

Dear Sir.

Remittances of royalty under foreign collaboration agreements

Please refer to paragraph 2 of Central Office circular letter No. EC. CO. 31/CALO. 71-72 dated 13th May, 1972, regarding application of provisions of licensed/registered/approved capacity in case of collaboration Agreements approved by Government prior to March 1970 but which did not stipulate the restrictive clause.

It has now been decided that the provision of the clause restricting the payment of royalty to licensed/registered/approved capacity and upto a maximum of 25 per cent in excess thereof if actual production exceeds the licensed/registered/approved capacity are also to be enforced in case of collaboration agreements which have been approved by Government prior to March 1970, but in which the above restrictive clause was not stipulated. You may, therefore, review such cases by calling for the particulars of production on which remittances of royalties under these agreements have been allowed in the past, along with a certificate from the Chartered Accountant of the company concerned showing the position *vis-a-vis* the company's licensed/registered/approved capacity and adjust the amount of royalty allowed to be remitted in excess, if any, against future royalty dues. In cases where the future dues would not be sufficient to adjust the excess remittance or where the collaboration agreements have already expired, you may refer such cases to Central Office with full particulars.

Yours faithfully,

Sd/-

(Deputy Controller)

Recommendations

1.139. Further the methodology, followed in negotiating with firm for the fixation of the rate of Rs. 7.50 per piece only strengthens the Committee's conviction that the transaction had been handled in a manner which was prejudicial to the railway finances. It is seen that on the basis of rates for 19 mm rounds of silico-manganese spring steel obtained through tender IS-17 in March 1975, the Tender Committee for the purchase of loose jaws had derived a rate of Rs. 4,833 per tonne for the spring steel to be used in the manufacture of modified loose jaws for negotiations with the firm. This rate was related to the lowest rate of Rs. 4,300 per tonne offered by a Calcutta firm. At that point of time the Tender Committee for purchase of spring steel had not finalised the tender for spring steel as it anticipated a further reduction in the price of this item because of the improved availability of steel in the market and reduction in the demand of the steel in the country. On further negotiations the tenderers for spring steel had revised their offers in June, 1975 and the rate of the Calcutta firm, on the basis of which negotiations for the rate of loose jaws had been conducted, came down to Rs. 3,117 per tonne only as against Rs. 4,300 per tonne tendered in March, 1975. The Tender Committee for loose jaws had not waited for the finalisation of the negotiations relating to the purchase of spring steel but had on 22 May, 1975 recommended placement of orders at a rate negotiated with reference to the steel price of Rs. 4,300 per tonne. If the Tender Committee had awaited the result of negotiations about the price of spring steel, they could have related their negotiations for the price of loose jaws to a price of Rs. 3117 per tonne only. Why the Tender Committee did not choose to wait for the outcome of the negotiations on the tender for the spring steel knowing fully well that there was a marked downward trend in prices is rather baffling. It has been worked out by Audit that if the rate had been negotiated with reference to the rate had been negotiated with reference to the rate of steel at Rs. 3117 per tonne, the Railway could have saved Rs. 7.30 lakhs after offsetting rebate of Rs. 7 lakhs allowed by the firm on the total supply of 13 lakh pieces. In the absence of any satisfactory explanation on the point the Committee cannot but conclude that the Tender Committee failed to safeguard the financial interest of the Railways. The haste with which the Tender Committee finalised its proceedings only creates doubts about the bona fides of the transaction which needs to be thoroughly investigated.

1.140. The Committee also feel that at a later stage when the Tender Committee was given another chance to negotiate with the

firm the price of loose jaws corresponding to a superseded design, it failed to take full advantage of the situation. This occasion had arisen in July, 1975 when the firm had sought an amendment to the concluded agreement of 19 June, 1975. At that stage the firm offered to supply 11 lakh pieces of loose jaws of a different specification against the contract for supply of 13 lakh pieces which had been finalised with the Railways on 19 June, 1975. The negotiations, on this point lasted for about a year and an amendment to the contract as desired by the firm was agreed to by the Railways in June, 1976. Surprisingly, however, no notice appears to have been taken of the further fall in the prices of spring steel. Between June, 1975 and December, 1975, the relevant price of the spring steel had come down from Rs. 3117 per tonne to Rs. 2480 per tonne. It has been estimated by Audit that with reference to the average market rate for silico-manganese steel prevailing in 1976 the extra amount paid for procurement of modified loose jaws to the outdated drawing was Rs. 10.60 lakhs after off-setting the lump sum rebate of Rs. 7 lakhs allowed by the firm. The Committee are constrained to observe that at every stage the firm which had the monopoly for the supply was able to exploit the situation to its own advantage and the Railways failed to protect their own financial interest. It is to be noted in this context that just as the firm was a sole supplier of this item, the Railways were in the position of a sole buyer. They could and should have conducted the negotiations with the firm in such a manner as to obtain most favourable terms for the Railways.

[Sl. Nos. 15 and 16, Paras 1.139-1.140 of 74th Report of PAC
6th Lok Sabha]

Action taken

It may be stated in this connection that as mentioned in para 1.135 of the PAC Report, M/s. GKW was the sole supplier of modified loose jaws to the Railways upto the end of May '75. The production of modified loose jaws being meant exclusively for Railways, the firm were manufacturing the track fittings right from November 1974 in anticipation of formal placement of orders by the Railway Board. For determining the price to be paid for the modified loose jaws, the Tender Committee in May 1975 took into account the rates quoted for supply of raw material—silico manganese steel—against stores Tender IS-17 only to serve as a near guide. The fact that after negotiations, the rate for supply of silico manganese steel had been reduced to Rs. 3117 per tonne in June '75 has no relevance at all for determining the price of modified loose jaws which were manufactured earlier. Moreover, lower prices for supply of silico manganese steel were quoted only by mini steel plants who produce cast billets/pencil ingots generally in size

100x100 mm which cannot be compared to the raw material used for manufacture of modified loose jaws. The quality of silico manganese steel which is strictly relevant for determining the price of modified loose jaws is only that quality which is manufactured by conventional steel plants who produce ingots bigger than 200x200 mm. It may be pointed out that the prices of silico manganese steel items were not reduced by the conventional steel plants significantly, even after negotiations. It is, therefore, submitted that the fact that the Tender Committee were able to negotiate and recommend purchase of MLJs at a price based on a raw material price quoted on 31-3-75 by firm 'B' which is a Mini Steel Plant in respect of modified loose jaws already in production, secured to the Railways the most advantageous terms. There was, therefore, no failure on the part of the Tender Committee.

Subsequently, when it was officially brought to the notice of the Railway Board by M/s. GKW that they had actually manufactured 11 lakhs modified loose jaws as per alteration No. 1 instead of alteration No. 2 as provided in the contract, opportunity was taken to re-negotiate the prices due to downward trend in the prices of raw material. It may once again be pointed out that the fresh negotiations for determining the prices of modified loose jaws pertain to the actual manufacture of modified loose jaws right from November '74 onward. The fact that in the middle of 1975 and later, the prices for raw material had recorded a reduction has no relevance to these negotiations. In determining the reduced prices of modified loose jaws, therefore, a note could be taken only of the prices for raw material which were prevalent during the earlier period. Accordingly, for the period from November 1974 to February '75, the price for raw material adopted was Rs. 4495 per tonne during which period 4.62 lakhs modified loose jaws were manufactured. For the period March 1975 and April 1975 during which 2.51 lakhs modified loose jaws were manufactured no rate was available. As, however, there was an indication of reduction of 15 per cent in the raw material prices, the same reduction was applied to the rate adopted for the earlier period working out to Rs. 3821 per tonne. It was only for the quantity manufactured from May 1975 onward that the rate negotiated separately for silico manganese steel namely Rs. 3117 per tonne, could appropriately be adopted, as this rate could strictly be deemed to have relevance only to modified loose jaws manufactured on or after the date from which this rate was adopted in the tenders for supply of steel. The fact that the second stage of negotiations for supply modified loose jaws to Alteration No. 1 were finally approved only in June '76

does not in any vitiate this basis which, it is repeated, was related to the prices for silico manganese steel obtaining at the time of manufacture of MLJs.

Moreover, at the second stage also the Tender Committee succeeded in negotiating a price based on a raw material prices quoted by a mini steel plant whereas the quality of steel produced by such mini steel plant is not adequate for manufacture of modified loose jaws.

It is, therefore, submitted that the negotiated price for supplies made by the firm was in the best interests of the Railways.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/
VI/74 dated 28-2-79]

CHAPTER IV

RECOMMENDATIONS OR OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The other serious lapse which has caused considerable concern to the Committee is the manner in which the requirements for two years, namely, 1974-75 and 1975-76 were clubbed together. It is noted that the requirements for the year 1974-75, which had originally been assessed as 33.60 lakhs in March/April 1974, were on a reassessment made in August 1974 in the context of drastic reduction in the allocations and non-receipt of sleepers, reduced to just 6.68 lakhs only. However, for placing the order on the firm the requirements for the year 1975-76 were assessed as 22.21 lakhs and an order for supply of 28.40 lakh pandrol clips was negotiated with the firm to cover up the requirements of both the years 1974-75 and 1975-76. The advance ordering of such a large quantity of 28.40 lakh pandrol clips in November 1974/February 1975 (when the actual requirements for 1974-75 were reassessed at that point of time to be only 6.68 lakh clips and the corresponding requirements of the Modified Loose Jaws for 1975-76 were yet to be covered) resulted in heavy overstocks which were not required for urgent track programmes of the Railways. The Railway Board have stated that clubbing was done keeping in view the fact that the firm had quoted a rate for a minimum of 31 lakh numbers. Secondly, since their capacity was higher any reduction in quantity would have resulted in an increase in rates. The Committee are not convinced with the explanation for ordering 28.40 lakh clips as requirements for the two years viz. 1974-75 and 1975-76. The Committee have come to the conclusion that the requirements for 1975-76 were inflated and sought to be covered in advance for the benefit of the firm.

Besides, by clubbing the two years' requirements at that particular time the Railways failed to take any advantage of the falling prices of steel. The firm had been the sole supplier and the Railways were the sole purchaser and as such the quantity to be ordered as well as the rates could have been negotiated keeping in view

the actual requirements of clips for the Railways and the prevalent special steel prices, as had been the practice in the past. The Railway Board was aware that there was fall in steel prices during this period through opening of the tenders for special steels during January 1975 prior to the approval of the Tender Committee's recommendations by the competent authority. The quantity of clips actually ordered should have been restricted to cover the immediate requirements for 1974-75 only. For the rest of the requirements for 1975-76 fresh rates could have been negotiated by taking advantage of the fall in prices. It is relevant to point out in this connection that in reply to the question as to why the negotiations were not confined for requirements for 1974-75, the Member Engineering stated 'it did not strike us'. It is also significant to note that the Railway Board had at that point of time yet to issue tender enquiry and finalise orders for modified loose jaws required to be used in track along with these clips during 1975-76 and these were ordered only in June 1975.

Moreover, the price differential between the rates paid for the last contract of September 1973 and rates negotiated and finalised in November 1974 was so glaring that even in the normal course the Railway Board should have made a deeper study of the market trends before entering into advance commitments for their future requirements, which could not at all be considered emergent or even urgent. Unfortunately no attention was paid to this aspect and the firm which was the sole supplier of the item, exploited the situation to its own advantage. The extra burden on the Railway exchequer as a result of the unwarranted decision to go in for advance procurement of pandrol clips for 1975-76 is not susceptible of quantification but judging by the amount of rebate which the firm was obliged to grant in the case of the contract for modified loose jaws (which case is also dealt with in a later section of this Report) it can be inferred that the amount involved was substantial. The Committee cannot but deprecate such injudicious decisions which were not in the interest of the Railway and were to the benefit of the supplier and which give rise to a suspicion of the bona fides of the concerned authorities.

[Sl. No. 3(ii), para 1.90 (ii) of 74th Report of PAC (Sixth Lok Sabha)]

Action Taken

Procurement of more than one year's requirement of Railways fittings at any one time is not unusual as in the case of fish plates

required by Railways, 3 years' requirements were clubbed together and ordered on Durgapur Steel Plant. The following are some of the reasons which had compelled the Railway Board to club the requirements of 1974-75 and 1975-76 for placing orders:—

- (a) The firm had quoted a rate for minimum quantity of 31 lakh pieces and had we ordered a much smaller quantity of only 6.68 lakh pieces required for 1974-75, the rate per piece would certainly have been higher because the firm had a manufacturing capacity of about 20 lakh pieces per annum and their overheads would have had to be distributed on a smaller quantity resulting in their raising the price.

- (b) In terms of Clause 23 of the Collaboration Agreement between M|s. GKW and the Patent holders of the Pandrol Clips, the firm was precluded from manufacturing pandrol clips for a period of 5 years after conclusion of the agreement (Dec. 1975). It was only in April 1977 that M|s. Pandrol Ltd. released M|s. GKW Ltd. from the obligation stipulated under this clause. In 1974-75, therefore, the fact that there would be no supplier of pandrol clips indigenously beyond December 1975 had also to be taken into account. Had procurement action for 1975-76 requirements been taken independently after 1-4-1975 as suggested by Audit, the order would have been placed in the later half of 1975, leaving inadequate time to the firm to complete the order before their Collaboration Agreement expired in December 1975. At this stage it may be mentioned that even though the Indian patent for pandrol clip as a component had expired in May 1975, the foreign firm also had another patent for the entire assembly of the track of which pandrol clip was only one part. The patent for this assembly including the pandrol clip was current upto 6-7-1979. Use of pandrol clips beyond December 1975 in the track assembly on the Railways would have infringed the patent for the assembly as a whole and the railways would have been put to a great predicament if they did not get adequate quantities of pandrol clips from the firm before the expiry of collaboration agreement. It may be added that the firm agreed to our use of pandrol clips independent of the assembly patent only in December 1977.

(c) Advance planning and procurement of track components is usually done taking into account the availability of funds and track renewal programmes chalked out for the financial year. The fact that the fittings could not be utilised fully during the year itself due to certain other constraints such as non-availability of other matching components, cannot lead to the conclusion that the original procurement planning was faulty. Audit have pointed out that quite a large number of pandrol clips were available as spill over after 1976-77. This was due to:—

- (1) Non-supply of modified loose jaws by the firm on which orders had been placed in June 1976.
- (2) Less production of Prestressed Concrete Sleepers than what was anticipated.
- (3) Supply of 4.54 lakhs and 6.10 lakhs of steel through sleepers in 1974-75 and 1975-1976 years by Durgapur Steel Plant as against a capacity of about 10 lac nos. of sleepers per annum; and
- (4) Giving up cast iron sleepers for use with Pandrol clips for technical reasons.

It is, therefore, submitted that the decision taken by this Ministry for advance procurement of Pandrols required during 1975-76 was for the benefit of the Railways and not for the benefit of any firm. It is further submitted that the 1975-76 requirements were not inflated but were computed fairly accurately with the information available with the Ministry at that point of time.

M/s. GKW who were placed a contract last in the series, when the pandrol patent was current under contract No. 74/W(TM)|1|1 dated 15-2-1975 for the supply of 28.4 lakh nos. of pandrol clips, completed their supply of the contracted quantity in full by December, 1975. On 1-4-1976 the Railways has a stock of about 33.6 lakh nos. of Pandrol Clips.

Pandrol clips are used on Indian Railways as component of elastic fastening system on concrete, steel, cast iron and wooden sleepers. On steel sleepers, pandrol clips are used in conjunction with modified loose jaws. On 1-4-1976 the Railways had a stock of 18.4 lakh nos. of modified loose jaws. A further contract for supply of 10.5 lakh nos. of modified loose jaws was placed on various

firms in July, 1976—The supply of modified loose jaws against July, 1976 contract has not yet materialised as the firms have not yet been able to produce the materials according to the specification.

Pandrol clips against stock as existed on 1-4-1976, therefore, continued to be available with the Railways till August, 1978 due to their less consumption mainly owing to the following reasons:—

- (i) Modified loose jaws beyond the stock which was available on 1-4-1976 could not become available for use with pandrol clips on steel sleepers.
- (ii) The supply of concrete sleepers could not come up to the expectations.
- (iii) The use of pandrol clips on cast iron sleepers was discontinued as the assembly did not give satisfactory performance in service.
- (iv) The pace of introduction of pandrol clips on wooden sleepers all along these years remained rather slow.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/74 dated 28-2-79.]

Recommendations

1.135. The Committee find that in terms of an agreement entered into with M/s. Guest Keen Williams Ltd. the Railway Board were committed to purchase the modified loose jaws (a fastening used with steel sleepers) for a period of 4 years ending in May 1975. The firm was the sole supplier and right from February 1971 the Railway Board had been getting the supplies of this item from them. The requirements of the modified loose jaws were estimated in February 1975 as 9.46 lakhs pieces for 1974-75 and as 16 lakh pieces for 1975-76. In February 1975 the Railway Board had also decided that in view of the impending expiry of the agreement in May 1975, only 9 lakh pieces of modified jaws representing the requirements of 1974-75 only be purchased from this firm and for the requirements of 1975-76 open tenders should be floated. For the supply of 9 lakh loose jaws negotiations were held with the firm in April 1975 and the firm quoted a rate of Rs. 7.67 per piece for a quantity of 9 lakh pieces and a rate of Rs. 7.55 per piece for a minimum order of 13 lakh pieces of jaws corresponding to a particular specification known as Alteration No. 2. The Tender Committee made recommendations in May 1975 for placement of

orders for modified loose jaws on M/s. Guest Keen Williams Ltd. at Rs. 7.50 per piece and also for increasing the quantity of modified loose jaws from 9 lakh to 13 lakh pieces to cover partly the requirements for 1975-76 also.

1.136. The Committee's examination has revealed that the Tender Committee's recommendations both in regard to the negotiation of a rate of Rs. 7.50 per piece, which was 50 per cent higher than the previous rate and the enhancement of quantity of loose jaws from 9 lakh pieces (as decided by the Board earlier) to 13 lakh pieces were not warranted by the conditions obtaining at that point of time.

1.137. In so far as the enhancement of quantity of jaws from 9 lakh to 13 lakh pieces is concerned the main reason which appears to have influenced the Tender Committee was that a marginally low price had been quoted by the firm for a minimum of 13 lakh pieces against 9 lakh pieces for which the tender was called. The firm which was the sole supplier of the item was thus able to impose its own conditions and the railways had only to acquiesce in the terms quoted by the firm.

1.138. The Committee are not at all convinced with the arguments now advanced by the Railway Board that the order for the loose jaws was enhanced keeping in view the expected increase in the supply of steel rough sleepers in the first quarter of 1975-76 and because the procurement of the loose jaws for 1975-76 proper would have taken a long time. These arguments easily fall through when the pace of consumption of the loose jaws on the Railways is taken into account. According to Railways' own admission only about 60 per cent of the planned quantity of the steel through sleepers, with which these jaws were to be used, had been received during the period 1973-74 to 1975-76. Further as pointed out in the Audit paragraph a review of the consumption of loose jaws on the various railways made by the Board in October 1976 had revealed that the entire quantities of loose jaws supplied to the Western Railway (4.05 lakhs) and Central Railway (1.75 lakhs) had not been used at all till January 1976. The acquisition of a large number of loose jaws at that point of time was thus not warranted by the needs of the railways. Moreover, since the future requirements of Railways were in any case to be procured from 1975-76 onwards by open tenders and not necessarily from this firm, there was no justification for making advance purchase in this manner. It is also relevant to add that the modified loose

jaws were inspected in advance of the order. The Committee have already made their observations on this aspect earlier.

[S. Nos. 11—14, Paras 1.135—1.138 of 74th Report of PAC
(Sixth Lok Sabha)]

Action Taken

Immediately after the expiry of the bilateral agreement with M/s. G.K.W. in May 1975, the following orders were placed with six other firms for the manufacture and supply of modified loose jaws:—

S. No.	Contract No. & Date	Supplier	Quantity
			Nos.
1.	76/W(TM)/22/4/1 dt. 26-5-76	M/s. HISCO, Calcutta	8,00,000
2.	76/W(TM)/22/4/6 dt. 14-7-76	„ OSWAL, Raipur	50,000
3.	76/W(TM)/22/4/2 dt. 14-7-76	„ Singh Engg. Kanpur	50,000
4.	76/W(TM)/22/4/3 dt. 14-7-76	„ Ajanta Iron, Delhi-Shahdra	50,000
5.	76/W(TM)/22/4/4 dt. 14-7-76	„ Bhushan, Chandigarh	50,000
6.	76/W(TM)/22/4/6 dt. 14-7-76	„ Star Steel Baroda	50,000

None of the firms have so far supplied the material even after a lapse of nearly 2 years from the time of placement of the orders and their samples also did not come upto specifications prescribed in the contract. During this period, the Railways' requirements were being met from the supplies taken from M/s. G.K.W. upto January '76 and progress on other track works involving the use of this component has come to a standstill. With regard to the charge that inspection of MLJs was done in advance of the order, detailed remarks are submitted to the Committee under the relevant recommendation relating to the supply "Pandrol Clips."

It may be pointed out that finalisation of the Tender Committee minutes on 23-5-75 was not done in a hurried manner. Action for procurement had been initiated in February '75 itself and negotiations were held on 2-4-1975. In the normal course, the Tender Committee finalised their recommendations on 23-5-75. It may be pointed out further that, as explained in the reply to para 1.139 and 1.140, the prices for the supply of modified loose jaws had been

negotiated by the Tender Committee taking into account the downward trend in prices duly correlating the period of actual manufacture of modified loose jaws by the firm. Therefore, the final price for supply of spring steel fixed in a separate tender on 5-6-1975 could not have been anticipated and would not have altered the price fixed by the Tender Committee in any way. In the circumstances, there were no shortcomings in the functioning of the Tender Committee.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/74 dated 28-2-1979]

CHAPTER V

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

Recommendations

1.93. The Committee find that the case of M/s. Guest Keen Williams Ltd. in so far as it relates to the payment of royalty to its foreign collaborators, stands on a slightly different footing. Although the collaboration agreement between M/s. Guest Keen Williams Ltd. and the U. K. firm for manufacture of pandrol clips did not mention any quantitative limit for the payment of royalty, the Ministry of Industry had in its correspondence with the firm clarified that payment of royalty was related to the licensed capacity only and that for production in excess of the stipulated quantity, namely, 125 per cent of the licensed capacity, the prior approval of the Government was to be obtained regarding the terms of royalty to be paid to the collaborator. Despite their assertions to the contrary, the Committee are convinced that the Ministry of Railways were aware of his position much before August 1975. In fact the Railway Board's letter No. 73/W(TM)/1/11 dated 12-11-1974 to the Department of Industrial Development wherein the Board had pleaded for modification of this condition of ceiling on payment of royalty on production in excess of the licensed capacity clearly shows the awareness of the Board. The Committee feel that the placing of orders by the Railway Board for quantities much above the licensed capacity of M/s. Guest Keen Williams Ltd. was by itself an objectionable act which should be thoroughly investigated with a view to fixing responsibility.

1.94. The Committee are also unhappy about the procedure followed in regularising the excess production of the firm as also in authorising the payment of royalty with retrospective effort. All along the Ministry of Industry had taken a stand that no royalty on the production in excess of the stipulated quantity, namely, licensed capacity plus 25 per cent, which in the case of M/s. Guest Keen Williams Ltd. worked out to 18.75 lakh pandrol clips, was payable. However, on representations from the firm, the Railway Board took up the matter with the Ministry of Industry with considerable zeal and after a great deal of efforts they persuaded the

latter to agree to the regularisation of the excess production of the firm during the years 1974 and 1975. While regularising the excess production the Ministry of Industry have relied on a circular issued on 15-4-1976 which prescribed that "cases having excess production ought to be brought before the Licensing Committee after examining whether from the economic point of view action against excess production would be justified if there were special reasons to believe that injury has been caused to one or more of Government's socio-economic objective". The Railways' agreement with M/s. Guest Keen Williams Ltd. expired in December 1975 and the Railway Board were not committed to take any further supplies from this firm. In view of this the Committee are at a loss to understand what advantage the Ministry of Railways expected to get in recommending to and pleading with the Ministry of Industry that the excess production of M/s. Guest Keen Williams Ltd. might be regularised. It may be noted that the Railways were the sole consumer of this item and the firm had no choice but to supply the pandrol clips to the Railways.

[Serial Nos. 6-7, Paras 1.93-1.94 of 74th Report of PAC
(Sixth Lok Sabha)]

Action Taken

On an application submitted by M/s. G.K.W. in March 1973, Ministry of Industrial Development had issued a letter of Intent in July 1974 to this firm, permitting them to expand their capacity to manufacture Pandrol Clips from 15 lacs to 40 lacs. Hence, the production of 20.74 lac pieces in the calendar year 1974 and 28.40 lac pieces in 1975 for the Railways did not by itself constitute any deviation from the provisions of the Industrial Licence. Also when the Railways became aware of the final stand taken by the Ministry of Industrial Development that payment of Royalty should be restricted only to original licensed capacity of 15 lacs 15 per cent, prompt action was taken by this Ministry to withhold an amount of Rs. 4.9 lacs towards Royalty for the excess quantity produced in the years 1974 and 1975. Thus, it is submitted that orders for 31 lacs pieces placed in September 1973 and for 28.4 lacs placed in February 1975 were in order and no objectionable act was committed by any officer.

As regards the payment of royalty, it may be mentioned that the amount representing royalty has already been withheld and has not been released so far.

In regard to the advantage which the Ministry of Railways expected to get in recommending to and pleading with the Ministry of Industry that excess production may be regularised, it may be mentioned that as already pointed out, the quantity ordered by the Railway Ministry was within the capacity authorised in the letter of intent of July, 1974. As mentioned in the Railway Board's reply to paragraphs 1.88 to 1.90, it has not been possible to locate an alternative indigenous source of supply for a suitable elastic fastening so far. But for the quantities supplied in terms of the order placed in February 1975, the programme of modernisation of track would have received a serious setback.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/74 dated 28-2-1979].

NEW DELHI;

March 12, 1981

Phalguna 21, 1902 (Saka).

CHANDRAJIT YADAV.

Chairman,

Public Accounts Committee.

APPENDIX

Conclusions/Recommendations

S. No.	Para No.	Ministry/ Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1	1.11	Railways	<p>The Committee are unhappy with the Ministry of Railway's response to their observations in regard to the manner in which the requirements of pandrol clips for two years, namely 1974-75 and 1975-76 were worked out for placing a purchase order on M/s. Guest Keen Williams Ltd. It has been stated by the Ministry of Railways that procurement of more than one year's requirement of Railways fittings at any one time was not an unusual practice. It cannot however be overlooked that the requirements of the pandrol clips for the year 1974-75 had been first reduced from 33.60 lakhs to just 6.68 lakhs in view of the drastic reduction in the allocations and reduced off-take due to short supply of sleepers. Further it has been pointed out by Audit that in view of the huge stocks left over from the 1975 contract for supply of 28.40 lakh clips, need for further procurement by the Railway Board arose only during 1978. This only goes to prove that the assessment of the requirements of clips for the year 1975-76 at 22.21 lakhs was not only unrealistic but also</p>

1 2 3 4
highly inflated without any relevance to the actual use for this
item of the stores.

2 1.12 Railways Similarly, in the case of procurement of loose jaws from the
same supplier, viz. M/s. Guest Keen Williams Ltd. the Committee
had come to the conclusion that the enhancement of quantity of
loose jaws from 9 lakh pieces (as decided by the Railway Board
earlier) to 13 lakh pieces by the Tender Committee was not warrant-
ed by the conditions obtaining at that point of time. The Tender
Committee recommended in May 1975 for placement of orders for
a quantity of 13 lakh pieces on the ground *inter alia* that during the
negotiations held with the firm earlier in April 1975 for supply of
9 lakh pieces, it had quoted a marginally low price for a minimum of
13 lakh pieces. This was not a convincing reply and the Committee
had observed that there was no justification for making advance
purchases in this manner.

-Do-

3 1.13

3

The Committee came to the conclusion that the inflated assess-
ment in the above cases had apparently been done to benefit the
firm by placing bigger orders at the prices dictated by the firm. In
the circumstances, the Committee cannot but reiterate their earlier
recommendations that there should be a thorough probe into the
matter. The Committee desire that these cases may be specifically
brought to the notice of the Minister and the probe should be done
by a high powered independent body. The final outcome of the
probe may be communicated to the Committee.