

Quattrocchi begins process to stop extradition 2712

By P.S. Suryanarayana

SINGAPORE, DEC. 26. A "notice of motion" is being filed before Malaysia's Court of Appeal in Kuala Lumpur to seek a final judicial remedy to ensure that Ottavio Quattrocchi, Italian businessman, in his country at present, but still wanted in New Delhi in connection with the Bofors case, is not extradited to India.

Mr. Quattrocchi left Kuala Lumpur on December 14 after the High Court had, on the previous day, turned down India's request that he be extradited.

Holding that there was no basis on which the Malaysian authorities could accede to India's plea, Justice Augustine Paul dismissed a "review" petition that the Malaysian Government itself had brought up against a lower court's refusal to sanction Mr. Quattrocchi's extradition. The Malaysian Government is still holding India's brief in the absence of a bilateral extradition treaty.

Mr. Quattrocchi's counsel,

Muhammad Shafee Abdullah, is asking the Court of Appeal to revoke its own ex-parte order or "injunction", which was passed on December 16, that the Italian national "surrender" his passport pending a hearing on the appeal against the High Court's ruling against India. The related plea is that the Court of Appeal "strike out" or quash the petition from the Malaysia-India camp against the High Court's order.

Although the process of filing the "notice" or prayer on behalf of Mr. Quattrocchi was set in motion today, it appeared that the Malaysia-India camp did not receive the relevant intimation through the required legal channels until late at night.

Speaking over the phone from Kuala Lumpur, Mr. Shafee told *The Hindu* that the Court of Appeal was being approached on five counts. First, the Malaysian prosecutors, acting on behalf of India, did not disclose to the Court of Appeal a material fact that Mr. Quattrocchi had left Malaysia for

Italy before the apex judicial forum ordered that his passport be impounded, Mr. Shafee said.

The counsel's second plea was that the Court's ex-parte order on the passport issue would remain a matter of academic interest as Mr. Quattrocchi had gone outside Malaysia's jurisdiction by the time the "injunction" was passed. The third reason cited by Mr. Shafee was that "no right of appeal" was available to India and its ally, the Malaysian Government, against the High Court's refusal to endorse New Delhi's extradition plea.

Malaysia's Extradition Act was categorical as regards this aspect, according to him. There was "no merit" in the substance of the appeal from the Malaysia-India camp, Mr. Shafee underlined, alluding to the fourth aspect of this latest petition. The last but not the least count was that the lodging of the appeal itself was an "abuse of the process of the court" in view of the provisions of the relevant Act, he said.

Quattrocchi to go on appeal

By P S. Suryanarayana

SINGAPORE, DEC. 20. Ottavio Quattrocchi, Italian businessman wanted in New Delhi in connection with the Bofors payoff investigations and trial, will soon seek through his counsel, a final judicial remedy in the case concerning India's demand for his extradition from Malaysia.

Mr. Quattrocchi left Malaysia last weekend after the High Court in Kuala Lumpur held that there was no ground to sanction his extradition. However, Malaysia's Court of Appeal, on Monday, passed an ex-parte order that called for the impounding of Mr. Quattrocchi's passport pending a

hearing on the petition filed by the Malaysian Government, which acted on behalf of India in the absence of an extradition treaty between the two.

India's plea before the Court of Appeal is that the High Court's judgment be reconsidered and that the extradition case be allowed to be reopened at the Sessions Court level.

Speaking over the phone from Kuala Lumpur, Mr. Quattrocchi's counsel,

Muhammad Shafee Abdullah, told *The Hindu* that he would be filing papers before the Court of Appeal to seek the revocation of the "injunction" on the Italian citizen's passport. He criticised Malaysia's Attor-

ney-General for not having duly brought to the notice of the Court of Appeal that Mr. Quattrocchi was no longer in the country when the issue came up for hearing.

He would also ask the court to "strike out" or quash the "notice of appeal" that the Indian and Malaysian side had filed against the High Court's judgment that reconfirmed Mr. Quattrocchi's "right to liberty".

He said Section 37 (6) of Malaysia's Extradition Act of 1992, which authorised the High Court to exercise a final say, would negate the new appeal against the dismissal of the original petition for Mr. Quattrocchi's extradition.

THE HINDU

21 DEC 2002

CHARGES UNSUSTAINABLE, SAYS JUDGE

Malaysian HC dismisses plea for Quattrocchi's extradition

By P. S. Suryanarayana

KUALA LUMPUR, DEC. 13. The Malaysian High Court today dismissed the "review" petition against a Sessions Court's emphatic refusal to extradite Ottavio Quattrocchi, Italian businessman residing in Kuala Lumpur, in connection with the Bofors payoff investigations and trial in India.

Malaysia's Attorney-General, acting on behalf of India in the absence of a bilateral extradition treaty, later filed a "notice of appeal" with the Court of Appeal here, even as Mr. Quattrocchi's "right to liberty" was reconfirmed in today's ruling by Justice Augustine Paul, who heard the "review" plea from December 4.

Justice Paul confirmed the lower court's order of December 2 as being "correct in law" and passed stinging strictures on the Indian authorities for their "failure" as also "unwillingness" to lay formal charges against Mr. Quattrocchi for determining whether or not he had committed extradition-grade offences.

The prospects of mounting a successful appeal against Jus-



The Italian businessman, Ottavio Quattrocchi, waves to mediapersons outside the High Court in Kuala Lumpur on Friday. At left is his wife Maria. — AFP

stice Paul's judgment and also seeking its "stay" were circumscribed by the express prohibition against such a legal recourse under Malaysia's own Extradition Act, according to counsel on both sides of the extradition divide in this case. The Malaysian Government's prosecutors, who held India's brief, outlined that the only window of opportunity at this stage was to challenge Justice Paul's con-

firmation of the ruling which the lower court had "summarily" passed at the time of "preliminary objections" without, arguably, following the legal "procedures".

Justice Paul observed that no person should be deprived of his life or personal liberty save in accordance with law. As such, the absence of a formal charge, "a bone of contention for two years" since the extradition

case was first processed in Malaysia, turned out to be the litmus test. "The failure to supply the (High Court here) and the respondent (Mr. Quattrocchi) with charges is fatal" to the plea against him.

Justice Paul said he "cannot comply" with the prosecution's last-minute move to seek an "alternative" procedure of framing charges under the auspices of the Malaysian High Court itself. First, the prosecution had "argued strenuously" that a charge "need not be supplied" as the relevant Indian Act "does not authorise the formulation of a charge" except "in the presence of the respondent (in this case)" after his interrogation, which had not yet taken place. Second, the prosecution itself had remained "unwilling" to prefer a charge until the final stage of the "review" hearings.

A charge, as required under Malaysian laws, "is, after all, for the purpose of conducting the (extradition) inquiry and not for the purpose of the foundation for prosecution" of Mr. Quattrocchi in India.

Sifting through the critical mass of material against Mr. Quattrocchi and citing principles of "natural justice", the Malaysian High Court said "there is sufficient evidence that the respondent received large sums of money from A.E. Services Ltd." However, A.E. Services did not fall under the category of "Indian agents" against whom there was a "prohibition" as regards the Bofors deal. The allegation that Mr. Quattrocchi had entered into a "conspiracy" for committing the offence of "corruption" was "unsustainable" as he "is not a public servant". Moreover, corruption-related "conspiracy" is not an offence in Malaysia insofar as the relevant period was concerned.

See also Page 12

CBI to go on appeal

By Our Special Correspondent

NEW DELHI, DEC. 13. Reeling under the shock of the Malaysian High Court's rejection of the Indian request for the extradition of Ottavio Quattrocchi — Italian businessman and an accused in the Rs. 64-crore Bofors pay-off case — the Central Bureau of Investigation today said that it was "still hopeful" of its appeal being given a fair hearing in the Malaysian Supreme Court.

Addressing a press conference at the agency's headquarters here, the CBI Director, P. C. Sharma, said the rejection of the Indian request came as a "surprise." "I am distressed because the verdict was pronounced without giving us a fair and

complete hearing. Only our preliminary objections were heard," he said. The CBI had filed an appeal in the Malaysian Supreme Court which would be listed before the court on Monday.

Maintaining that neither the CBI nor the Attorney General's chambers in Malaysia had been given a "fair chance" to present the case for Mr. Quattrocchi's extradition, Mr. Sharma said: "We were even denied the right of having a counsel which is allowed under the Malaysian Extradition Act."

Offences of criminal conspiracy, cheating, criminal misconduct and corruption levelled against Mr. Quattrocchi were also offences under Malaysian laws, Mr. Sharma said.

9.12.2002

THE BOFORS TRAIL

10/10 5/12

THE TRIAL IN the Bofors deal, involving alleged illegal payoffs (to the tune of Rs. 64 crores) by the Swedish gun manufacturer to different arms dealers (and middlemen who had nothing to do with the arms trade), has been delayed once again. True, the Supreme Court Bench had only applied the law and provisions in the Criminal Procedure Code when it stayed the proceedings in the CBI Special Court and held that the trial of the Hinduja brothers shall not be initiated until the question as to whether the CBI was right in prosecuting them without having obtained clearance from the Central Vigilance Commission (CVC) was resolved. The requirement to obtain clearance from the CVC before initiating prosecution is indeed a provision in law to ensure that the investigating agency is not abused for partisan political gains.

It is another matter that the Hinduja brothers have managed to drag the investigation and the trial for so long since 1993 — ever since it emerged that the documents concerning the payments made by the Swedish gun manufacturer into coded Swiss bank accounts also consisted of papers pertaining to three coded accounts (Tulip, Lotus and Mont Blanc) that belonged to them — by mounting legal challenges one after another. The stay granted by the Supreme Court now (over-ruling the July 12 judgment by the same court allowing the trial to continue) would mean that the trial, slated to begin on December 4, 2002, will now be put off by several months until the apex court delivers its verdict on the CBI's plea to go ahead without the sanction from the CVC. Now that the Supreme Court has directed listing of the case (involving the procedural disputes) to March 11, 2003, the Hinduja brothers — Srichand, Gopichand and Prakash — have a reprieve.

The developments in the Malaysian courts too (strikingly at the same time) involving yet another alleged recipient in the Bofors payoffs case — Ottavio Quattrocchi — might fall in the same bracket. Mr. Quattrocchi too, it may be recalled, was among the appellants in the Swiss Federal

Courts against transmitting documents pertaining to his coded accounts in the Swiss banks to the CBI. However, when the ruling turned out to be against his appeal and the CBI came to possess documents on the basis of which the former representative of the Italian firm, Snam Progetti, was prosecuted, Mr. Quattrocchi had managed to fly out of India and has managed to frustrate the investigation. The trial in his case too is yet to begin and with the Malaysian court rejecting the extradition plea by the CBI, the Quattrocchi trail too seems to have petered out, at least for the moment. This setback could have been avoided if only the law-enforcing agencies had shown some more seriousness during the week between July 22, 1993, (when the Swiss Courts had conveyed the names of the seven appellants in which Mr. Quattrocchi's name too figured) and July 29, 1993, (the day Mr. Quattrocchi flew off to Malaysia from New Delhi). The CBI had filed an affidavit in the Delhi High Court before that claiming to be in possession of evidence of Mr. Quattrocchi (on behalf of his AE Services) receiving illegal payments amounting to \$ 7 million from the Swedish arms manufacturer in return for his help in clinching the 155 mm howitzer deal.

While these developments — particularly the stay imposed against initiating the trial against the Hindujas — are only temporary in nature and can in no way be seen as discharge or acquittal of the NRI brothers, the fact is that such long periods of delay in the legal process will contribute immensely to the building of a public perception, right or wrong, that the system is incapable of bringing the guilty to book and particularly so when those charged with corruption and other such acts are among the high and the mighty. Such a development in the Bofors case, in many ways the most important corruption case in India, is certainly not in the public interest and hence there is a need to deal with it expeditiously at least in the days to come. The ball is now before the apex court where the CBI's appeal against the High Court order quashing the chargesheets is pending disposal.

5 DEC 2002

SC stays Hinduja trial in Bofors case

TIMES NEWS NETWORK

New Delhi: The supreme court on Monday amended its own order which had allowed for the day-to-day trial of the three Hinduja brothers in the Rs 64 crore Bofors pay-off scandal and stayed their prosecution to avoid the possibility of "travesty of justice" in future.

In July, a bench headed by the then chief justice B.N. Kirpal had ordered the continuation of the trial of the three brothers although it admitted for hearing a CBI appeal against the Delhi high court order quashing the chargesheets against them.

However, a bench headed by chief justice G.B. Pattanaik on Monday stayed the trial against the three Europe-based brothers before Delhi's special judge Prem Kumar and asked them to file their response to the CBI appeal within four weeks. Justice Kumar has already framed charges against them.

Justifying the modification of the July order, the bench said it would be a "travesty of justice if during the pendency of the CBI appeal in the supreme court, the trial court proceeded to convict the accused and later the apex court held (in the CBI's appeal) that the high court was right in quashing the chargesheets". The bench also said that it was unusual for the apex court to have allowed the trial proceed-

Reprieve for Quattrocchi

Kuala Lumpur: A Malaysian court on Monday freed Italian businessman Ottavio Quattrocchi in an extradition case filed by the Indian government against him to stand trial in India in the Bofors pay-off case. Throwing out the case, the court ruled that the descriptions of the offences in the requisition papers were insufficient, vague and ambiguous. It discharged Mr Quattrocchi without conditions and ordered the return of his passport. PTI

● New Delhi wants Malaysia to appeal, Page 7

ings to go on when it admitted the CBI appeal.

CBI's counsel and solicitor-general Kirit N. Raval said the Hindujas had themselves given an undertaking before the apex court that the charges could be framed against them in absentia as the court had permitted them to go abroad while on bail. When the Hindujas' counsel Ram Jethmalani urged the court for an early hearing on the CBI appeal, the bench said there were several pending cases where the accused were in custody.

● I've full faith in Indian judiciary: Gopichand, Page 7

THE TIMES OF INDIA

3 DEC 2002

JUDGES POINT TO ANOMALOUS SITUATION

SC stays trial against Hinduja in Bofors case

By J. Venkatesan

NEW DELHI, DEC. 2. The Supreme Court today stayed the trial against the three Europe-based Hinduja brothers in the 12-year-old "Rs. 64-crore Bofors payoff case," scheduled to begin before a special court on December 4, even as the Central Bureau of Investigation opposed the stay.

(Only in July, a three-Judge Bench, headed by the then Chief Justice, B.N. Kirpal, while staying the Delhi High Court order quashing the chargesheet against the Hinduja brothers, ordered the continuance of the proceedings. Accordingly, the special court framed the charges in November and posted the case for trial on December 4).

By staying the trial, the three-Judge Bench, comprising the Chief Justice, G. B. Pattanaik, Justice K. G. Balakrishnan and Justice S. B. Sinha, granted a major relief to the Hinduja brothers — Srichand, Gopichand and Prakash — observing that it would be a "travesty of justice" to allow the trial to go on when the CBI's appeal against the High Court order was pending disposal.

The Bench, which modified the apex court's earlier order of July 12, said "let there be stay of the trial until the CBI files response to the application filed by the Hinduja (seeking stay of the proceedings) which may be put up for hearing after four weeks."

When the Solicitor-General, Kirit Raval, opposed the application, the Bench asked him: "will it be proper to allow the trial to go on when the matter is still pending here?" Mr. Raval said it was a usual practice with the courts to allow the trial proceedings to go on when such appeals were admitted.

When the Bench indicated that it was going to stay the trial, Raval asked the Bench to

give at least a week for the CBI to file its reply to the Hinduja's application before taking any decision. Here was a case in which 'mention' was made on Friday and an application seeking a stay of the trial was filed on Saturday.

'Are there special provisions for Hinduja?'

"Are there any special provisions for the Hinduja," he asked and argued with vehemence that such a procedure was unheard of. "I will be failing in my duty as Solicitor-General of India, if I don't point out this to the court." Ram Jethmalani, senior counsel appearing for the Hinduja, was quick to point out that such argument amounted to "contempt of court." He also charged the Government with trying to influence the court by getting articles published in newspapers "every time the case came up for hearing." Even as there was a heated exchange of words, the Chief Justice pacified Mr. Jethmalani and asked: "do you think that we would be influenced by such

newspaper articles?" Mr. Raval also drew the court's attention to a solemn assurance given on behalf of the Hinduja last month (when permission was sought to allow all of them to be away from the country to celebrate Diwali with their families) before another Bench that the trial could go on and that they would cooperate and would not seek a stay of the proceedings. There was no change of circumstances since then and the Bench should not grant a stay, he said.

The Bench then asked Mr. Raval "what will happen if during the pendency of the appeal, the trial court proceeded to convict them and later we dismiss the CBI's appeal? It would lead to an anomalous situation where the apex court would hold that the High Court was right in quashing the chargesheet on technical ground but the accused would be convicted by the trial court. It would be a travesty of justice."

Four weeks for CBI

The Bench, therefore, modified the July 29 order by staying

the trial and granted four weeks time to the CBI to file its response to the Hinduja's application. And it made it clear that the stay of the proceedings would remain in force till further orders.

The Bench also directed the listing of the main appeal filed by the CBI on March 11, 2003, before a Bench headed by Justice V. N. Khare.

Talking to presspersons after the court stayed the trial, Gopichand Hinduja, who was present in the court, said "we welcome the interim order. I have complete faith in the Indian judiciary and it will be proved that we are innocent."

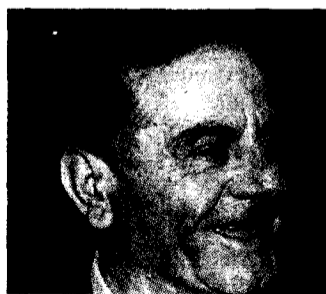
When the High Court, by its June 10 judgment, quashed the chargesheet against the Hinduja on the technical ground that the CBI had not obtained the prior consent of the Central Vigilance Commission, it was considered a major setback to the CBI pursuing the case for over a decade.

But by today's order, the CBI has again suffered a setback in pursuing the case to its logical end.

Quattrocchi's extradition plea rejected

KUALA LUMPUR, DEC. 2. In a blow to India, a Malaysian court today rejected its plea for extradition of the Italian businessman, Ottavio Quattrocchi, to stand trial in the Bofors pay-off case. The Indian authorities here have decided to go in for an appeal in the High Court. The Attorney-General's chamber, which is conducting the extradition proceedings, will appeal in the Kuala Lumpur High Court tomorrow for a review of the Sessions Court's ruling, India's lawyer, Cyrus V. Das, said.

Earlier, the Sessions Court Judge, Akhtar Tahir, threw out the extradition case on the



ground that the descriptions of the offences in the requisition papers were "insufficient, vague and ambiguous". Discharging Mr. Quattrocchi unconditionally, the judge also ordered the return of his pass-

port and the bail.

Mr. Quattrocchi has been on bail since his arrest in December 2000. He had alleged that India's attempt to seek his extradition to stand trial in the Bofors case was politically motivated. India, which has no extradition treaty with Malaysia, launched its case to bring back Mr. Quattrocchi, residing in Malaysia, two years ago. The Malaysian Government on December 15, 2000 gave a special direction in writing under the Extradition Act, and on Dec. 18, a magistrate issued a warrant against Mr. Quattrocchi. — PTI

CBI plans appeal: Page 11

HINDUJAS, SWEDISH CO. INDICTED

Rajiv covered up Bofors deal: court

Statesman News Service

NEW DELHI, Nov. 14. - There was a "secret design" by former Prime Minister Rajiv Gandhi and Mr SK Bhatnagar, then defence secretary, to ensure that AB Bofors bagged the multi-crore gun deal by abusing their official position, the special CBI judge observed today. Mr Prem Kumar's order on framing charges in the Bofors case noted that Rajiv Gandhi's post-contract conduct showed that "a massive cover-up operation was launched".

The judge made the scathing remark in a 176-page order pronounced in open court on framing of charges against the three Hinduja brothers and the Swedish gun manufacturer, AB Bofors, on counts of criminal conspiracy, cheating and corruption. The court said that though there was no legal requirement to give a "speaking order," the Bofors case was a "unique case" involving serious allegations of abuse of position by high public servants in a deal having international ramifications.

In course of evaluating the points raised by counsel for the Hindujas and Bofors, the court discussed various aspects of the deal, the role of key functionaries of the government, including Rajiv Gandhi and the Joint Parliamentary Committee that set out to get to the bottom of the scandal.

But JPC's object "seemed to be to quell the political storm at that time and not to arrive at the whole truth. Rather, constitution of the JPC and the manner in which enquiry was conducted and its report seem to be part of the massive cover-up exercise after the exposure of the scam by the media," the court said.

Describing the Bofors scandal as a "case of deep-rooted conspiracy and political pay-offs and bristled with all manner of complexities

and complications", Mr Prem Kumar recalled Rajiv Gandhi's statement in the Lok Sabha days after news of the scandal was reported in the Indian media. Gandhi told the Lok Sabha that there were no middlemen involved in the deal and if anyone gave the government any evidence that this was not true, "we will take action and we will see that nobody, however, high up is allowed to go free".

"How encouraging and bold!" the court observed. "As if there is a ring of sincerity and the Prime Minister Rajiv Gandhi is out to find the truth. Rajiv Gandhi was not naïve and im-

petuous. He pretended to be a maverick. All this was, however, a deliberate posturing and part of a well-conceived and pre-arranged plan to apparently show the non-involvement of middlemen/agents in the deal and to achieve the oblique purpose by direct negotiations on the one hand, and to have secret middlemen on the other".

The order pointed that the move by the then defence secretary to call representatives of the four competing firms and tell

them that the government would not allow Indian agents was taken at the instance of Rajiv Gandhi.

"Win Chadha was initially perceived to be a potential rival. His continuance as agent would make it difficult to introduce close confidant of Rajiv Gandhi like Ottavio Quattrocchi and to receive handsome commission. However, later a way out had been found," the order said.

As for claims that Bofors was as good a gun as its competition, Sofma, the court observed that material collected by the CBI suggested that prima facie, "although Sofma was cheaper and better gun and gun system, the contract still went to Bofors".

Offences which the Hindujas, Srichand, Gopichand and Prakashchand, and AB Bofors are liable to be charged with:
Hinduja brothers - Sec. 120-B, 420 IPC read with Sec. 5 (1)(d) and Sec. 5 (2) of the Prevention of Corruption Act, 1947, Sec. 161 IPC read with Sec. 165-A/34 IPC (cheating, criminal misconduct and corruption)
AB Bofors - Sec. 420, Sec. 161 read with Sec. 165-A IPC, Sec. 464 and 465 (cheating, corruption and forgery)

Court denies Hinduja Bofors papers

Press Trust of India

S.F. 18/7

NEW DELHI, July 17. — A Delhi court today rejected a plea by Hinduja brothers seeking copies of certain official documents related to the Bofors purchases as disclosure of these documents would harm national interests.

"In the present case, the documents seemingly relate to question of national security. It is stated in the affidavits of the secretary, ministry of defence, that annexures ... contain classified information relating to the specifications of weapons system and ammunition etc.," special judge Mr Prem Kumar said.

The Hinduja brothers — Srichand, Gopichand and Prakash Chand — had sought the

supply of "Philosophy paper of October 1979 sent by Chief of Army Staff to the ministry of defence" and the document pertaining to "supply contract of May 25, 1986" on which the ministry had claimed privilege.

The Hinduja's counsel said they had a right to get the copies of the documents mentioned by the witnesses in their statements, even though these may pertain to affairs of state. Otherwise, it would not be a fair trial as contemplated in terms of Article 21 of the Constitution. The court said: "The philosophy paper is stated to contain classified information relating to the projections of the Indian Army and its weapon requirements. These belong to the class of noxious documents and pertain to the affairs of the state. Obviously, in case of such

documents the court is not the proper forum to weigh the matter ... Those responsible for national security must be the sole judges of what national security requires."

The judge said the defence secretary's affidavits state disclosure/making public of these documents would harm national interests. "... The request for production of the aforesaid annexures ... of the supply contract and the philosophy paper 1979 is declined." While specifying contents of the two documents, the court said: "Of what use are these to the accused persons? It is the decision ... on the said philosophy paper that matters as it had taken the decision to place order for gun system." The court fixed 19 July for hearing the arguments on charge.

THE STATESMAN

13 JUL 2002

Proceed with Bofors trial, orders SC

18/7

TIMES NEWS NETWORK

New Delhi: The three Hinduja brothers who are accused in the Rs 64 crore Bofors Howitzer pay-off case will now face trial as the supreme court on Friday stayed the Delhi high court judgment quashing the chargesheet against them.

A bench comprising Chief Justice B.N. Kirpal, Justice K.G. Balakrishnan and Justice Arijit Passayat asked the trial court to proceed in the case and "let the charges be framed. The proceedings have to go on".

Counsel for the Europe-based Hinduja brothers, Kapil Sibal, had pleaded that the case could be fixed for early hearing and that in the meantime the trial proceedings should be stayed as continuance would result in prejudice against the accused.

But the bench said, "We are staying the operation of the Delhi high court judgment and all proceedings before the trial court should go on. We are convinced that this (high court) judgment is completely unsustainable. Forget about this case, if such judgments are not stayed, no prosecution will succeed."

Justice R.S. Sodhi of the Delhi high court had on June 10 quashed the chargesheet filed against the Hinduja brothers, Srichand, Gopichand and Prakash Chand, saying that the Central Bureau of Investigation had not taken clearance from the Central Vigilance Commissioner prior to the filing of the chargesheet as mandated by the supreme court in the Vineet Narain judgment (hawala case).

"The Vineet Narain judgment is not meant for this," the supreme court bench observed while fixing hearing of the appeal for July 29, by when the Hinduja brothers will have to file their replies to the CBI special leave peti-

- SC stays Delhi HC order quashing chargesheet against Hindujas
- 'Let charges be framed,' apex court tells trial court
- HC had quashed chargesheet saying CBI did not take CVC's clearance

tion against the high court judgment.

CBI's counsel Harish Salve said that in the matter of filing the chargesheet, neither the CVC nor any "person or authority has the right to interfere. The high court overlooked the basic scheme of the law in force where once an investigation has begun, it is incumbent upon the investigating agency to file a report in the court. In filing this report, no person or authority has the right to interfere in the working of the agency".

Mr Salve added that the high court had erred in misconstruing the observations made by the supreme court. The latter had emphasised the need for the CBI to be independent and, in an individual case, no person or authority had the right to curtail its power of investigation, which must culminate in the filing of a report before the appropriate court.

By implication, the high court judgment confers powers on the CVC to interfere in individual cases (and logically, at every stage of investigation). It could also impede an investigation. If, at the last stage, the CVC directs the alteration of a final report, surely at an earlier stage, it should have the power to direct the suspension or discontinuance of an investigation. Moreover, the CVC would be empowered to sanction the filing of a chargesheet, failing which the court cannot take cognisance of it.

13 JUL 2002

MOVE TO USHER IN GREATER TRANSPARENCY

Eminent persons group to scrutinise defence deals

By Sandeep Dikshit

NEW DELHI, JUNE 29. With India poised to make record purchases of military hardware, the Defence Ministry is putting in place systems and procedures to avoid controversies that seem to surround every major purchase.

In order to bring about transparency in defence purchases and ensure that the public accepts the final decisions, the Ministry is setting up a 12-member eminent persons group (EPG). Before a contract is signed, the EPG will scrutinise every deal to determine whether all the prescribed procedures have been followed. The members would be experts associated earlier with defence purchases such as former Defence Secretaries, Central Vigilance Commissioners and CAG officials.

Simultaneously, a three-member "technical oversight committee," comprising officers not involved in the acquisition process, will ascertain whether the selection of the vendor was technically correct. "It is very demoralising to face allegations. Even the best of officers get alarmed when charges of wrongdoing are aired," the Union Defence Secretary, Yogendra Narain, said.

The Government's concern is understandable because India is poised to purchase defence equipment worth Rs. 22,000

crores (over \$ 4 billion) during the current fiscal against Rs. 12,000 crores two years ago. South Block is also pressing for a non-lapsable, two-year fund to ensure that the funds are not returned unutilised at the end of the current fiscal. "This system is practised in France and Italy. There is no reason why we cannot have it here," according to Mr. Narain.

The massive acquisition programme was in consonance with the wider military role envisaged for India in the region. However, on the setting up of a nuclear command, he said that the issue was "still under deliberation and study."

Listing the major purchases on the anvil, Mr. Narain said equipments urgently required for anti-terrorism operations were being bought under the fast-track mechanism. These included night vision devices, unmanned aerial vehicles, hand-held thermal imagers, counter IED equipment and thermal imagery integrated systems.

The purchase of advanced jet trainers from British Aerospace was "in its last stages" while the price negotiation committee for the Russian aircraft carrier, Admiral Gorshkov, was expected to submit its report by the end of next month. India would sign an agreement to assemble six Scorpene submarines at the Mazagaon Dock Limited.

THE HINDU

30 JUN 2002

Bofors backfires on CBI

Down the barrel, dead end lurks

FROM OUR SPECIAL CORRESPONDENT

New Delhi, June 10: The quashing of charges against the Hinduja brothers — Srichand, Gopichand and Prakashchand — by Delhi High Court has virtually stalled the Bofors case, which had unseated the Rajiv Gandhi government in 1989.

Justice R.L. Sodhi has even suggested to the Centre to go into the "feasibility" of carrying on with the case.

Two of the key accused have died during the pendency of the trial — alleged middleman in the gun deal Wisheshwar Nath Chaddha alias Win Chaddha and former defence secretary S.K. Bhatnagar. The two passed away last year. Extradition proceedings against Italian businessman Ottavio Quattrocchi and A/B Bofors' former chief Martin Ardbo are still pending and it might take years to come to a decision.

The Swiss government has made it clear that Ardbo will not be sent for trial in India as under Swiss laws an accused has to be tried in Switzerland. Further, M/S A.B. Bofors itself has folded up and one of its parts has merged with another firm in these days of coalitions and acquisitions.

The main accused, former Prime Minister Rajiv Gandhi, too, died more than a decade back and the CBI chargesheet says "he is not being sent up to trial", though it names him as an accused. After 12 years of investigation, the case has not even seen proper trial proceedings.

Now, the charges against the Hindujas have been quashed as well.

The counsel for the Hindujas, former Union law minister Ram Jethmalani and R.K. Anand, ar-

BOFORS CASE FILE



Rajiv Gandhi

- **March 24, 1986:** Rs 1,437-cr contract between Indian government and Swedish company AB Bofors signed for supply of 400 Bofors guns
- **April 16, 1987:** Swedish Radio claims AB Bofors paid kickbacks to top Indian politicians and defence officials to secure deal
- **April 20, 1987:** Then Prime Minister Rajiv Gandhi assures Lok Sabha that neither any middleman was involved nor kickbacks were paid
- **January 22, 1990:** CBI registers FIR
- **December 1992:** Supreme Court reverses Delhi High Court decision quashing FIR
- **July 12, 1992:** Swiss Federal Court rules that India was entitled to Swiss bank documents pertaining to kickbacks
- **January 21, 1997:** Over 500 pages of secret documents given to Indian authorities at a public ceremony in Berne
- **February 10, 1997:** Letters rogatory issued to Malaysia and UAE seeking arrest and extradition of Italian businessman Ottavio Quattrocchi and former Bofors agent Win Chaddha
- **May 1998:** Delhi High Court rejects Quattrocchi's plea for quashing of red corner notice issued by Interpol at CBI's request
- **October 22, 1999:** CBI files first chargesheet naming Chaddha, Quattrocchi, former defence secretary S.K. Bhatnagar, former Bofors chief Martin Ardbo and AB Bofors. Rajiv Gandhi's name figures as "an accused not sent for trial" as he died in 1991
- **September 29, 2000:** Hindujas issue statement in London saying funds received by them from AB Bofors had no connection with gun deal
- **October 9, 2000:** CBI files supplementary chargesheet naming Hinduja brothers — Srichand, Gopichand and Prakash
- **January 19, 2001:** Hinduja brothers surrender before trial court. They are granted bail but refused permission to go abroad
- **September 27, 2001:** Hindujas granted permission by Supreme Court to go abroad on a rotation basis
- **October 24, 2001:** Chaddha dies in Delhi. Bhatnagar died earlier
- **February 2002:** Special court set up to try Bofors case on a day-to-day basis on Supreme Court's direction
- **June 10, 2002:** Delhi High Court quashes chargesheet against Hinduja brothers



A Bofors gun

gued that "not only (should) the cases against the Hinduja brothers be quashed but also the cases against the other accused in the light of the fact that the main accused (Rajiv Gandhi) had died".

Sodhi pointed out that the Hindujas' counsel had contended that "even the earlier chargesheet against the deceased Prime Minister (Rajiv), defence secretary S.K. Bhatnagar (since deceased) and Win Chaddha (since deceased), Ottavio Quattrocchi, Martin Ardbo (both of whom have not yet been extradited) and

A.B. Bofors should also be quashed".

"Even they are entitled to the benefit of the Supreme Court judgment as the two chargesheets have been clubbed by the order of the trial court," the judge pointed out. In their cases, too, the CBI had not sent the investigation report to the Central Vigilance Commission before filing the chargesheet.

The never-ending Bofors saga is now staring at a dead end, notwithstanding the possibility of a fresh chargesheet.

FROM R.VENKATARAMAN

New Delhi, June 10: Delhi High Court today quashed the CBI chargesheet against the three high-profile Hinduja brothers in the Bofors case, bringing it almost to a halt.

A single-judge bench of Justice R.S. Sodhi said in its 32-page judgment that the chargesheet was "half-baked" and virtually indicted the CBI of being "under a cloud".

The judge upbraided the premier investigating agency of the country, saying: "The CBI must not drag its feet or file half-baked chargesheets when high and mighty are involved especially when in power, also it should not file frivolous cases against the innocent at the behest of those in power. I cannot be unmindful of the fact that the CBI has been under a cloud."

"It (CBI) has been accused of being a political shield or a whip of the government of the day."

"The constitution and working of the investigating agencies revealed lacuna in its inability to perform whenever powerful persons are involved. For this reason, a closer examination of constitution of these agencies and their control assumed significance according to the Supreme Court," the judge said, referring to the Vineet Narain case in which the apex court set guidelines for the functioning of the investigating agencies.

Sodhi said the CBI should have submitted its findings to the Central Vigilance Commission (CVC) as per the Supreme Court guidelines in the Vineet Narain case to avoid "frivolous" and "half-baked" chargesheets being filed.

In the Bofors case against the Hindujas, this was not done. But the judge clarified that fresh chargesheets could be filed against the Hindujas.

CBI sources said an appeal against the high court order would be preferred in the Supreme Court and the legal consequences were being discussed inter-departmentally.

In the wake of today's judgment, two consequences are most likely: an appeal in the supreme court against the high court order quashing charges against the Hinduja brothers

and filing a fresh chargesheet.

The latter would mean an admission on the part of the CBI that a "half-baked" chargesheet was filed in the case.

The judge said the CBI on its own showing "has not placed before the CVC the results of its investigation and has by-passed it by filing a chargesheet".

The judge did not spare the vigilance commission either. It has "abdicated its functions, which it was obliged to perform under the directives of the Supreme Court", he said.

The judge clarified that an earlier condition of the apex court for the bail of the Hindujas would continue and it would depend on the accused to move court to modify the conditions or nullify them as the charges against them were quashed. A high court cannot modify an apex court order and it is for the accused to move the apex court.

The judge also made it clear that the "prosecution would be free to file a fresh chargesheet, if advised, after following the procedure laid down by the Supreme Court in the Vineet Narain case".

Sodhi also told the government: "It would be also open to the prosecution/ government to consider the feasibility of carrying on with this case in view of the circumstances and in accordance with law."

CBI spokesman S.M. Khan said the agency would take the case to the Supreme Court.

"We will be going to the Supreme Court. We are looking into the court's judgment carefully," he said.

Khan said the Hindujas still could not leave the country together in line with a Supreme Court order in August 2001 that said all three brothers could not go abroad at the same time.

"No, they can't (leave the country together). The high court has said that the restrictions imposed by the Supreme Court on their bail will continue," the spokesman said.

The apex court had said Geneva-based Prakashchand Hinduja could leave India on providing a bank guarantee, but rejected the plea of Srichand and Gopichand to go out together, saying one of them had to remain in the country.

'No communication on Hawk deal'

By Our Special Correspondent

NEW DELHI, MAY 27. While India today officially denied having received any communication from Britain on the suspension of the proposed sale of 'Hawk' advanced jet trainers, the British High Commission took recourse to technicalities by pointing out that the issue of putting the deal in abeyance did not arise because the contract was yet to be inked.

The officials of the Defence Ministry concurred with the British High Commission's perception that the suspension of the export licence given to the Hawk's manufacturers and its

replacement by a 'case-by-case' regime was not significant.

"Negotiations are still continuing and this decision will have a bearing only if we finalise the deal for 66 Hawk-100 AJTs," they said.

However, analysts point out that if Britain decides to block the sale of the military equipment, it could impact the country's war preparedness.

The supply of spares for assets such as the Navy's Sea Harriers and Sea-King helicopters and the Indian Air Force's deep strike Jaguar aircraft could be affected if Britain's suspension of export licence to British Aerospace — manufacturers of

Hawk — acquired a wider sweep.

But, these fears could be impermanent because Britain appears to have given an assurance against a blanket arms embargo, although it is firm on vetting each arms export application on a case-by-case basis due to the prevailing tense situation in South Asia.

The purchase of AJTs is crucial for India because there is no intermediate aircraft for trainee pilots before they graduate to the more sophisticated fighter jets.

The high attrition rate of MiG-21 has been attributed to this factor.

THE HINDU

28 MAY 2002

MoD puts off deal with tainted firm

Saurabh Shukla
New Delhi, April 5

THE DEFENCE Ministry has put on hold a deal for purchase of hand-held thermal imagers from a tainted French company, Thales Optronics. The move follows a report in this newspaper.

Sources say another deal for thermal imaging devices for tanks from Thales Optronics was also cleared recently, but has been put in cold storage.

A Defence Ministry clarification in response to the report is

primarily an exercise in obfuscating facts concerning the case in point.

The MoD's claim — that the firm in question has not been blacklisted but was only being probed by the ministry's vigilance department — is nothing but verbal juggling aimed at covering up the serious lapse in clearing the procurement proposal.

It is learnt that the deal in question has been cleared, together with the grant of financial approvals. Only the signing

of the formal contract with Thales Optronics, the French supplier of thermal imagers, was due when the deal made the headlines.

It is intriguing that though the ministry's vigilance circular warning of the company's allegedly dubious antecedents went out in August 2001, MoD's Price Negotiation Committee found it prudent to negotiate a price with the company for the supply of thermal imagers.

The vigilance alert had also drawn attention to a Thales sub-

sidiary's involvement in the Augusta submarine deal with Pakistan and the subsequent allegations of kickbacks that landed a former Pakistani naval chief in trouble.

In its clarification on Thursday, the MoD said: "No such deal has been finalised." But the real give away is the MoD's silence on the meeting of the Price Negotiating Committee and its admission that "some allegations against Thompson CSF Optroniq (the earlier name of Thales), France are being looked into"

Accord on arms transfer & technology

9/1
9/2

Defence deal minus carrier

FROM OUR SPECIAL
CORRESPONDENT

New Delhi, Feb. 8: After six years of negotiations and another three-day round ending today, India and Russia failed to clinch a deal on the Admiral Gorshkov aircraft carrier but worked around it to chart a roadmap for future arms transfer and technology programmes.

The Gorshkov deal has not been written off. Russian deputy Prime Minister Ilya Klebanov said he hoped that a contract could be signed by the summer for the 44,000-tonne carrier the Indian navy desperately wants.

Defence minister George Fernandes and Klebanov emerged from the meeting on military-technical co-operation with plenty of paperwork to show. The one deal that has gone through, with a contract being signed with KBP Tula Russia, is an outright purchase by India of Krasnopol "terminally guided projectiles".

No official word was available on the size of the contract. Unofficial sources said it could be 4,000 rounds of ammunition for the 155 mm Bofors Howitzers and might be worth Rs 800 crore.

Several rounds of the talks of the sub-group negotiating the Gorshkov were actually hard bargaining by both sides. Fernandes said "the price is yet to be fixed". He also did not give a time limit for the negotiations.

The Russians have offered the Gorshkov for the price of its refit and have reportedly linked it to the sale/purchase of MiG 29K aircraft and also the TU-22M "backfire bombers". They are asking around \$750 million for the



George Fernandes with Russian deputy Prime Minister Ilya Klebanov at a news conference in New Delhi. (Reuters)

whole package. India is looking to secure the deal for \$650 million minus some of the trappings the Russians want to sell. "Negotiations have progressed and if Mr Fernandes does not mind, we will hope to sign a contract by the summer," said Klebanov.

Fernandes said India and Russia would collaborate to develop a global satellite surveillance system. No detail on the project was given out. This is the first time it was even mentioned.

Moscow agreed to a request from New Delhi to supply an additional lot of T-90 tanks by March 31. Forty of 310 tanks were delivered in early January under a contract now under implementation.

Fernandes said trials for the SMERCH multiple launch rocket system — a possible acquisi-

tion for the army — will be held in May this year. On a fifth-generation combat aircraft, the Russians will be sending a "concept" paper, after which an Indian delegation will visit Moscow.

The two sides also signed three protocols that will govern future arms transfer and technology programmes.

An official statement said: "With the current agreements, which have now been reached between the two countries relating to joint co-operation for developing a fifth-generation combat aircraft and the development and production of a multi-role transport aircraft, the military relationship between Russia and India has matured from a buyer-seller relationship to transfer of technology and now to that of collaboration in R & D."

THE TELEGRAPH

9 FEB 2002

Russia brother in arms and weapons

■ No negotiations for nuclear submarine, say both sides

■ Two-thirds of MoD money unspent

EXPRESS NEWS SERVICE
NEW DELHI, FEBRUARY 8

INDIA and Russia reached an agreement on the acquisition of aircraft carrier Admiral Gorshkov and Tu-22 long-range maritime reconnaissance aircraft. Russia has also agreed to speed up the delivery of T-90 tanks and send Smerch multi-barrel rocket launchers for trials in summer.

Both Defence Minister George Fernandes and visiting Russian Deputy Prime Minister Ilya Klebanov denied any negotiations for the acquisition of nuclear submarines.

On Admiral Gorshkov, Klebanov said they were ready to sign the contract by the summer. "We are finalising negotiations for Gorshkov and Tu-22 bombers. There were no negotiations for the nuclear submarine," he said.

Fernandes said that after the technical negotiations, a price-negotiation committee (PNC) will be established but refused to hazard a guess on the time frame for acquisition.

India and Russia signed four protocols including one on the purchase of Krasnopol precision-guided munition. Russia is to now send a concept paper on the co-development and joint-



- What's on its way**
- Krasnopol precision-guided munition
 - Admiral Gorshkov aircraft carrier
 - T-22 maritime aircraft
 - Smerch Rocket Launchers
 - 877 EKM submarine refit
 - Mi-17 transport Helicopters

manufacturing of the fifth generation fighter aircraft. After studying the paper, a high-level team of Indian officials will visit Moscow for the technical evaluation. The two countries have also decided to cooperate in the field of satellite and global surveillance system.

The Smerch multi-barrel rocket launchers will come to India for trials in summer. The two countries also signed a protocol on the upgradation of Type 877 EKM conventional submarines. "It has been agreed to accord priority to the setting up of facilities required for the medium refit and upgradation of 877 EKM submarines in India," Fernandes said.

India is also trying to negotiate the acquisition of additional Mi-17 transport helicopters by the IAF. The two countries will also work together in developing high-tech weapons and

CONTINUED ON PAGE 2

GAURAV C SAWANT
NEW DELHI, FEBRUARY 8

IF officials in the Ministry of Defence (MoD) and services headquarters are worried they have a reason to be. With less than two months for the financial year to end, the Ministry has been able to spend only Rs 6,000 crore out of a total capital budget of Rs 19,959 crore. Last year, out of an allocated Rs 17,926 crore in the capital budget, only Rs 3,147 crore remained unspent.

There is no way that approximately Rs 14,000 crore can be spent in seven weeks nor does there appear to be an inclination to do so despite desperate pleas of the Army, Navy and Air Force.

"The Army is the worst sufferer," Defence Minister George Fernandes told *The Indian Express*. "I'm worried at the amount unspent and that the financial year is about to come to an end."

The Air Force too has a long list of aircraft and systems needed for modernisation and upgradation of its existing fleet. These include advanced jet trainers, flight refuelling aircraft, airborne warning and control systems (AWACS), executive jets, light and medium

Top priority in capital outlay (2001-02)

ARMY	<ul style="list-style-type: none"> • Weapon Locating Radars • AFV Radio Set • Multi-Barrel Rocket Launcher • 155mm Towed Gun • Surveillance System
NAVY	<ul style="list-style-type: none"> • Air Defence Ship • Dornier Aircraft • Sea Harrier Trainer • Maritime Reconnaissance Aircraft • Thermal Imaging Cameras
AIR FORCE	<ul style="list-style-type: none"> • Advanced Jet Trainer (AJT) • Flight Refuelling Aircraft • AWACS • Executive Jets • Helicopter Upgrades

Source: Ministry of Defence
IE Graphics/B.K. Sharma

lift helicopters and interim fighters for the replacement of the MiG-21 fleet.

"These were under top priority in the Capital Outlay Budget of 2001-2002. Unfortunately not one of them has even been contracted," said an official in the air headquarters.

Services agree that not all equipment can come the same year. But with a little money being spent each year, pressure is less on spending in the last months where deals are then concluded hurriedly, often leading to slip-ups and leaving scope for corruption.

The army has marked as Top priority procurement of weapon-locating radars

CONTINUED ON PAGE 2

INDIAN EXPRESS

9 FEB 2002

India, Russia to ink defence deal

Statesman News Service

NEW DELHI, Feb. 6. — Plans for the acquisition of a large number of high-tech weapons systems will be formalised at the end of the three-day Indo-Russian Inter-Governmental Commission on Military Technical Cooperation that began here today.

After an hour-long meeting between the Russian Deputy Prime Minister, Mr Ilya Klebanov, and Mr George Fernandes, working groups have begun discussions on the acquisition of a number of weapons and technologies. They include:

- 46 Mig-29 K planes, including six trainers for carrier *Admiral Gorshkov* and the air-defence ship being built in India. The letter of intent for *Gorshkov* had been signed but negotiations for the price are on. The Russians had offered *Gorshkov* for free but are going to charge about \$747 million (negotiable) for the refit. India feels it could be reduced to \$650 million, if some systems were not fitted to the vessel. Each plane would cost about Rs 90 crore.

- Lease of a nuclear-powered submarine. Officials said the Russians have offered a 10-year



Mr Ilya Klebanov with Mr Jaswant Singh in New Delhi on Wednesday. — AP/PTI

lease of *Akula Class* nuclear submarine. They're now offering a newer vessel and their initial terms suggest a lease price of \$1.3 billion. Recently, there has been talk of two *Bars Class* submarines.

- Four TU-22ME planes for long-distance maritime reconnaissance. With modifications, the planes can be used as bombers and can

carry nuclear weapons.

- Plan to build a second line of submarines in India. The French-designed *Scorpene* submarines are being built in Mumbai but the second line could be of the Russian-made advanced *Amur* class submarines that the Navy called for five years ago.

There is a talk of a number of other systems, including the *Smerch* rocket-launcher, IL-78 plane that can be used as a platform for the *Phalcon* eye-in-the-sky and Mi-17 helicopters. A fifth-generation combat plane is likely to be on the agenda. Other areas of talks include a 100-seater aircraft and MiG-AT advanced jet trainer.

The payments and acquisitions will be staggered to ensure that neither the buyer nor the seller faces any problems. Though no deals are likely to be signed, letters of intent would be signed on Friday, sources said.

There are also efforts to ensure that the Indian defence establishment get spares for the equipment in service. Senior defence ministry officials said the manufacturers could set up shop in India shortly.

There is a chance of the equipment being manufactured here, perhaps for export to third countries.

THE STATESMAN

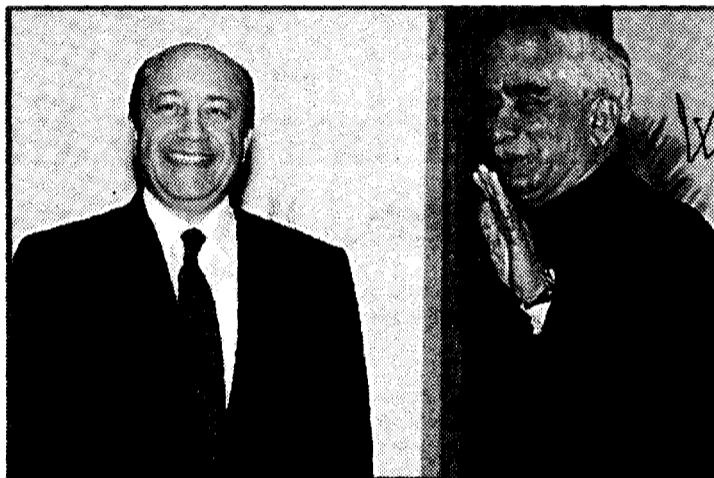
India, Russia to finalise submarine deal next week

Our Political Bureau
NEW DELHI 3 FEBRUARY

4/2
ES-2
9-1 deal
Jaswant Singh

STRIKING A fine balance, New Delhi is all set to reaffirm its longstanding defence ties with Russia by formalising an agreement to acquire two nuclear-powered submarines, while taking another step forward in strengthening Indo-US defence cooperation in the

marines, the acquisition will undoubtedly place India's naval capabilities at an advantage. The submarines will also play a key role in enhancing India's ability to effect a "second-strike" in the event of a nuclear attack. Naval chief Admiral Madhvendra Singh had recently pointed out that submarines were crucial for a second strike because of their mobility and the



INCHING CLOSER: Jaswant Singh with Russian foreign minister Igor Ivanov in New Delhi on Sunday. — Reuters

wake of visits made by top US army and naval officials.

The deal for the lease of the two submarines is expected to be finalised this coming week when Russian deputy Prime Minister Ilya Klebanov arrives here on Tuesday to attend meetings of the Inter-governmental commissions on defence and economic co-operation.

Although reports have indicated that India may get a somewhat scaled-down versions of the sub-

ability to hide from the enemy.

Reports so far have indicated that Russia will replace the 3000 km cruise missiles, fitted on the submarines, with shorter range (300 kms) versions. If the deal goes through as expected, India can hope to get the submarines by 2004.

On the other hand, India's warming of defence ties with the US post 9/11 is proceeding ahead as planned.

The Economic Times

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DEFENCE:

(Continued from page 1)

39) 51-90
than half the price was not considered.

During his recent visit, British Prime Minister Tony Blair is said to have pushed for the purchase of the Hawks. *J. Defence & ind*

On the upgradation of 130mm guns to 155mm by Soltam, an Israeli firm, the allegation is that the work was done at twice the price quoted by South African and Yugoslav firms.

Competitive trials of the Springbok and Yugoslav products was not carried out.

Both these deals figure in the Tehelka tapes as does the one for the Armoured Recovery Vehicle, which was worth Rs 900 crore.

The Vigilance Commission report raises several questions. On the AJT Hawk trainer, the commission asked:

■ Why is Hawk offering an old version at twice the price quoted by South Africa for the latest version trainer?

■ Can a jet trainer built to British specifications help when most of our fleet is Russian?

On the Soltem upgradation the Commission wanted to know:

■ Why was only one vendor invited?

■ Why was this contract — offered as early as 1993 — revived in 2000?

The Commission found procedural lapses in the deal for the helmet-mounted R-73 missile for Mirage 2000.

THE STATESMAN

3 FEB 2002

CVC questions defence deals

RAJU SANTHANAM

NEW DELHI, Feb. 2. — The Central Vigilance Commission has in two "secret" reports questioned the role of the Defence Ministry in at least four major deals signed by it. Three of these deals figure in the Tehelka tapes.

Ominously, in a letter to the Public Accounts Committee dated 17 January, the Defence Ministry has claimed that the contents of the vigilance report cannot be made public since it would be prejudicial to the "national interest".

The report says that the Defence Ministry refused to part with several files relating to the deals, claiming these were still being negotiated.

In spite of this, the two reports have been described as exhaustive. The CVC investigation based on the testi-

mony of serving and retired officials of the ministry besides other public servants, not only went into faulty defence procedures but actual-

On the AJT Hawk trainer, the CVC asked: Why is Hawk offering an old version at twice the price quoted by South Africa for the latest version trainer?

ly made recommendations with a view to ensure that "mistakes" are not repeated.

"This was not a witch-hunt against anyone," said a source, "after all it was only at the instance of Mr George

Fernandes (the Defence Minister) that we went into the deals."

The deals that have come in for adverse scrutiny by the Vigilance Commission are:

- Advance Jet Trainer — Estimated project cost of Rs 10,000 crore;
- Armoured Recovery Vehicle — Cost US \$ 200 million (Rs 9,600 crore);
- Upgradation of 130 mm guns to 155 mm guns by an Israeli firm — Cost approximately Rs 450 crores.
- Helmet-mounted R-73 missile systems for the Mirage 2000.

While there has been a long-standing need for an AJT, the main problem with the British Hawk is that it will become obsolete by next year. A cheaper aircraft - the L-159 - available at less

■ See DEFENCE: page 10

THE STATESMAN

3 FEB 2002

US nod to Phalcon deal

WASHINGTON, Jan. 18. — Mr George Fernandes tonight said the USA had cleared the sale of Israeli Phalcon Airborne Warning and Control System to India. "Yes, we're getting them and the USA has given its consent," the defence minister told CNN after meeting senior officials here.

He said handing over of 20 terrorists and criminals alone couldn't be a pre-condition for de-escalation of tensions along the Indo-Pak border. Peace can return to the region only if

^{I.D. deal,} Pakistan stops cross-border terrorism. In an interview to the *Washington Times*, he said there were no signs that Islamabad had done that.

Absence of an extradition treaty between the two countries, he said, shouldn't come in the way of handing over of the terrorists.

On Gen Pervez Musharraf's speech, he said the President had addressed his "domestic problems", but not the issues India had been raising.

— PTI

19 JAN 2002