

CHAPTER XIII: MINISTRY OF SHIPPING

The Shipping Corporation of India Limited

13.1 Disposal of Vessels

13.1.1 Introduction

The Shipping Corporation of India Limited (Company) was formed in October 1961 by amalgamating Eastern Shipping Corporation and Western Shipping Corporation. Government of India conferred (August 2008) 'Navaratna' status to the Company which owns and operates around one third of the Indian tonnage and provides various kinds of marine trade services such as tanker, bulk, liner, etc.

The Ministry of Shipping, Government of India prescribed (April 1995) economic life of vessels of various categories, according to which tankers and bulk carriers could be scrapped/disposed off after the completion of 20 years and 25 years of economic life respectively. The Company disposed off 30¹ vessels (**Annexure-IV**) during the period 2009-10 to 2011-12 and realized ₹ 598.67 crore as net sale proceeds as detailed below:

Table 1

(₹ in crore)

Year	No of vessels	DWT ² (MT)	Sale Proceeds
2009-10	8	453540.00	122.52
2010-11	9	520426.90	200.97
2011-12	13	568657.14	275.18
Total	30	1542624.04	598.67

13.1.2 Scope of audit

Audit examined during the period June 2012 to October 2012 records pertaining to the sale of 30 vessels disposed of by the Company during the years 2009-10 to 2011-12. The records in the Mercantile Marine Department (Ministry of Shipping) relating to de-registration of disposed vessels were also examined.

13.1.3 Audit Objectives

Audit study was undertaken to assess whether:

¹ Vessel *M.V Dr. Nagendra Singh*, sold during the year 2011-12 was not considered in audit as the vessel was declared as Constructive Total Loss (CTL) due to fire and the Company got full insured value of the vessel. The sale was conducted on behalf of the underwriters.

² Dead Weight Tonnage (DWT) is the displacement of any loaded condition minus the lightship weight. It includes the weight of crew, passengers, cargo, fuel, water and stores.

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- prudent norms* were uniformly applied for preparation of Techno Economic Study (TES) to ascertain the useful life of the vessel so as to arrive at an appropriate decision to either sell or for further trading.
- basis of estimation of the economic life and base price of sale, had considered all correct and relevant parameters and were correctly and uniformly applied.
- there existed a competitive and robust bidding process.
- rules and regulations including instructions of Government of India were complied with and terms and conditions of sale were adhered to.

13.1.4 Audit Criteria

The system for disposal of vessels was examined against the criteria derived from:

- Guidelines issued by Government of India relating to disposal of vessels;
- Guidelines issued by the Company and the decisions taken by the Board;
- Terms and Conditions in the tendering documents;
- Best practices adopted in the Industry.

13.1.5 Audit Methodology

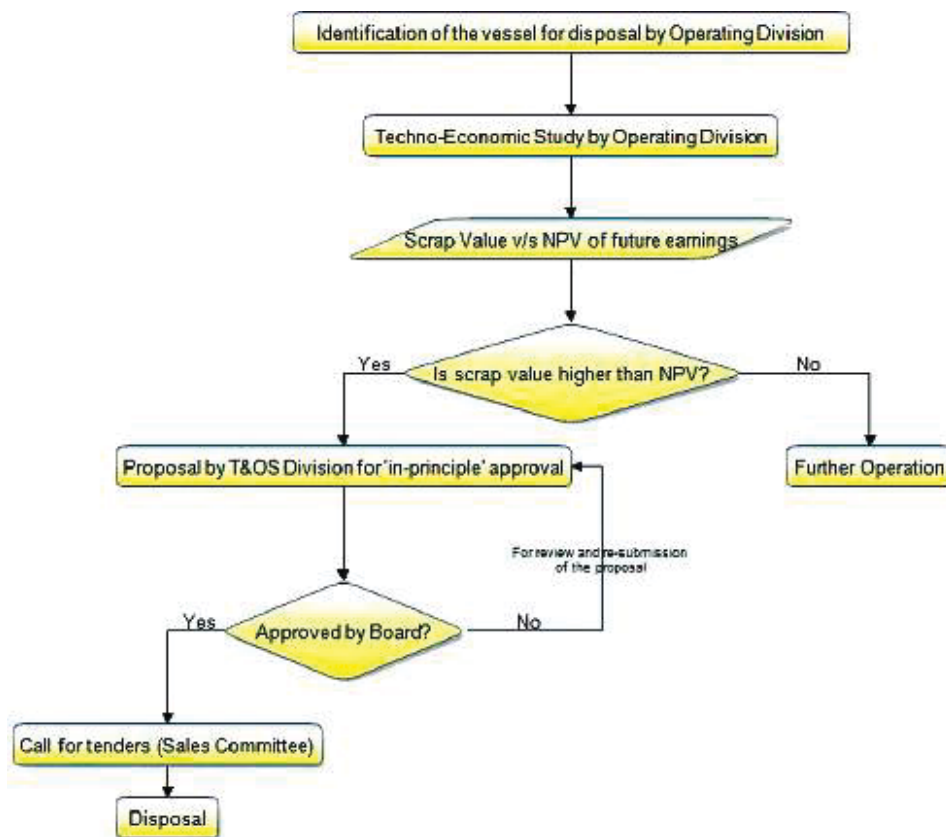
Test check of the records pertaining to preparation of Techno Economic Study (TES) to arrive at the economic value of the vessels was carried out along with related instructions in this regard. Cases of individual sale of vessels were test checked with reference to terms and conditions as per the agreement entered and the guidelines issued. Process of bidding and award of contract for sale were seen keeping in view the guidelines that had been drawn up by the Company.

13.1.6 Process of Disposal

In terms of Article 150 (2) (d) of Articles of Association of the Company, the Board of Directors was empowered to take decisions for disposal of vessels which were economically not viable. As per the GOI's OM dated 16 April 1990, the Company had to follow the guidelines issued by Ministry of Surface Transport, Government of India.

The flow chart depicting the steps in the process of disposal is as under:

* TES is being conducted to arrive at a decision whether to sell or operate the vessel further by using uniform norms such as highest scrap rate published in the last three months in the Clarkson weekly, expected future earnings for three years as published in Drewry magazine, estimated expenditure for next three years, etc.



13.1.7 Audit Findings

13.1.7.1 Process of disposal carried out on the basis of guidelines which were not approved by Government

The Ministry of Surface Transport had prescribed (April 1990) the guidelines for the sale/scraping of the ships. The Company revised (August 2000) the guidelines and Ministry of Shipping also had approved (June 2001) the same. The Company again revised the guidelines, and submitted (April 2004) to the Ministry for approval. The Ministry, while refusing the proposal (December 2004) directed the Company to follow the existing guidelines/procedure in letter and spirit. However the Board of Directors approved the revised guidelines (May/July 2010) and thereafter, followed the new guidelines. This was, however, sent to the Ministry only for information (October 2010). No specific approval of the Ministry was obtained.

The Management/Ministry stated (November 2012/February 2013) that SCI Board during its meeting (April 2009) observed that SCI was bestowed upon the “Navratna” status on 01 August 2008 by the Government of India and therefore recommended SCI to revise the existing disposal guidelines. Subsequently, the “Guidelines for disposal of SCI’s vessels” were revised and was approved by SCI Board (July 2010).

The Ministry further stated (February 2013) that the Ministry of Shipping (MoS) had nominated two Directors on the SCI Board and at least one director was present during the Board meetings when the subject was being discussed and deliberated upon.

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Therefore, the views of the MoS were conveyed / considered by the Government Directors on SCI Board.

The reply needs to be considered in the light of the fact that the Joint Secretary (Ministry of Shipping), one of the Government Directors on the Board of SCI had clarified (November 2011) that any change in disposal guidelines required the approval of Government. This fact was ignored by the Board and the new guidelines were followed without approval by the Government.

Major changes between the guidelines of 2001 and 2010 were given below:

Table 2

Subject	Guidelines of 2001	Guidelines of 2010
Sale price	In principle approval was obtained for the disposal of the vessel at a realizable sale value as concluded in the TES.	In principle approval was obtained for the disposal of the vessel at a realizable sale value as concluded in the TES. In addition to this, the Board would authorise CMD to dispose the vessel upto (-) 10 <i>per cent</i> of the Board approved sale price. Thus, the net realisable sale value was allowed to be reduced by 10 <i>per cent</i> of the value as concluded in the TES.
Re-tendering	In case the tender was not finalised due to offer being lower than the Board approved price, H 1 backing out, etc., re-tendering was to be conducted.	In case H1 bidder backs out, the Sales committee with the concurrence of the CMD, will have the option to invite all the participating bidders (except the H1 bidder) to submit fresh bids within a short span of time, say within 24 hours, instead of going for re-tendering.
Final approval	The recommendations of the sales committee will be first put up to the CMD and thereafter to the Board of Directors for their final approval.	If the H1 bid is within the price band authorized by the Board, then the CMD was authorized to approve sale of the vessel. However in case the price is lesser than the price band, the proposal is put up to the SCI Board for final approval.

Audit observations with reference to the above were as follows:

In the 2010 guidelines, it was inserted that in case H1 bidder backs out, the Sales committee with the concurrence of the CMD, had the option to invite all the participating bidders (except the H1 bidder) to submit fresh bids within a short span of time, say within 24 hours, (snap bids) instead of going for re-tendering. Since the rates quoted were known to all the bidders (at the time of opening the tender), the chances of obtaining better rates were restricted and the existing tenderers were observed to be quoting a rate which was always less than the H1 of the original tender. It was also observed in the case of four vessels where snap bids were invited from existing bidders, the prices realized were less than the H1 price by ₹ 3.39 crore as given below:

Table 3

Sl. No.	Name of the vessel	H1 price in the first tender	Price realised in snap bid	Difference	Exchange rate	₹ In lakh
		(USD in lakh)				
1	Rishikesh	40.82	39.42	1.40	51.77	72.48
2	Jadunath Singh	38.34	36.50	1.84	46.58	85.82
3	Piru Singh	39.40	37.51	1.89	47.06	89.15
4	Lok Rajeshwari	30.10	28.07	2.03	44.96	91.20
	Total					338.65 or 3.39 crore

If the intention behind snap bid was speedy sale, this was defeated as the process of snap bid itself was initiated after considerable delay ranging between 14 and 33 days after the opening of the original bids.

The Ministry stated (February 2013) that the inordinate delay in snap bids was caused due to the H1 bidder backing out or dishonouring his H1 bid.

The reply was factual. Such delay also entailed avoidable expenditure on standing charges to the extent of ₹3.51 crore as detailed below:

Table 4

(₹ in crore)

Sl. No.	Name of the vessel	Delay in calling snap bids (days)	Standing charges per diem	Total
1	Rishikesh	33	0.03	0.99
2	Jadunath Singh	18	0.04	0.72
3	Piru Singh	31	0.04	1.24
4	Lok Rajeshwari	14	0.04	0.56
	Total	96	0.15	3.51

In contrast, in four cases where retendering had to be done due to quotes received being lower than the price band, the company could complete the retendering process much faster than the snap bid process as would be seen in the following table:

Table 5

Sl. No.	Name of the Vessel	Date of invitation of tender	Due Date of Tender	Tender opening date for 2nd tender	Tender opening date for 3rd tender	Date of sale	No. of days from due date of tender to date of sale (VII - IV)
I	II	III	IV	V	VI	VII	VIII
1	Havildar Abdul Hamid	02-Aug-10	12-Aug-10	24-Aug-10		08-Sep-10	27
2	Lance Naik Karam Singh	02-Aug-10	09-Aug-10	17-Aug-10	24-Aug-10	07-Sep-10	29

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3	Pataliputra	19-Jan-12	30-Jan-12	09-Feb-12		17-Feb-12	18
4	Nirmaljith Singh Sekhon	13-Jan-10	25-Jan-10	04-Feb-10		10-Feb-10	16

Recommendation No.1: The existing guidelines may be reviewed duly ensuring requisite approvals.

13.1.7.2 Techno-Economic Study

TES is being conducted to arrive at a decision whether to sell or further operate the vessel by using uniform norms. Audit noticed deviations in preparation of TES as discussed below:

(A) Inclusion of Management Expenses in TES

As per the practice followed by the Company for preparation of TES, the management expenses were being excluded and basic cost of dry docking were taken as ₹ 5 crore. Audit observed that in case of vessel M V Kanpur, Company considered management expenses of ₹ 2.86 crore and basic cost for dry docking of ₹ 6 crore instead of above, and recommended for immediate scrapping. If the management expenses were excluded and ₹ 5 crore considered as the basic cost for dry docking the result was in favour of further operation. Audit observed that management expenses were excluded in all other cases since the same was to be spread over to the remaining vessels.

The Ministry stated (February 2013) that this was as per the earlier practice of including Management Expenses in preparation of TES. The reply is factually incorrect as the Company had excluded Management Expenses while preparing (March 2009) the TES for vessel M V Lok Prakash sold prior to vessel M.V.Kanpur as the same would be borne by the Company's other vessels. Thus, the inclusion of management expenses in case of vessel M V Kanpur was improper and to that extent projections were not correctly forecasted.

(B) Adoption of incorrect scrap rate for TES

In order to assess the viability of the vessel for further operation or to be immediately disposed of, the prevailing scrap rate was compared with the NPV of further operation. As per the procedure of the Company, the highest scrap rate/LDT¹ as published in the Clarkson Weekly in the three months preceding the TES date was to be adopted. However, we observed that in 25 cases, the rate adopted for TES was less by 0.55 to 23.36 per cent than the rates as published in Clarkson Weekly which resulted in fixation of lower base price by an amount of ₹ 60.48 crore and in four² cases, the rate adopted for TES was higher by 2 to 5.26 per cent which resulted in fixation of higher base price by ₹ 4.21 crore as given in Annexure-V.

Thus, the scrap rates adopted for working out the realizable scrap value lacked uniformity and consistency and resulted in fixation of lower base price in 25 cases by the Board and in four cases a higher base price by the Board.

¹ Light Displacement Tonnage defined as the weight of the ship as built.

² Vessels M T Havildar Abdul Hamid PVC, M T Lance Naik Karam Singh PVC, M T Lt.Rama Raghoba Rane PVC, M T Bharatidasan,

The Management stated (November 2012) that the scrap rate taken was the highest during the last three months as per the Clarkson Report according to the directives of the Board of Directors. Reply also contained the vessel-wise date of TES proposal along with scrap rate applied with reference to the date of Clarkson Report. The Clarkson report referred to was the latest report considering the date of the TES proposal and not the highest in the preceding 3 months of the date of TES.

However, the Ministry stated (February 2013) that the Company considered the average weekly demolition scrap rate published in the Clarkson Weekly report for TES till the Board directed (December 2011) that the highest scrap rate in the preceding two months should be considered to arrive at the NPV calculation.

The fact remained that the directions of considering the highest scrap rate as given in the Clarkson report preceding 3 months was disregarded by the Management while preparing the TES.

Recommendation No.2: The procedure for preparation of the Techno Economic Study Report needs to be clearly defined and its adherence regularly monitored.

13.1.7.3 Delays in initiating proposals by Operating Division and non revision of scrap rate in case of delay in sale

TES conducted by the Operating Division taking into consideration the date of expiry of economic life of vessels and expiry of licenses were submitted to the Technical & Operation Division (T&OS) for obtaining 'in-principle' approval from the Board. The time frame allowed in the approved guidelines for disposal was as follows:

- 30 days to complete the TES and to obtain the approval of CMD after identification of the vessel for disposal by the Operating Division
- five days for preparation and submission of the proposal by T&OS Division to Board for in-principle approval;
- 80 days from in-principle approval to final disposal of the vessel

The scrap rate considered for TES was based on the highest scrap rate published in the Clarksons weekly during the last three months at the time of preparation of TES. The market rate was influenced by various factors such as supply/demand of scrap tonnage, labour issues, change in government rules/regulations, steel/metal market price etc. and was highly volatile.

When the scrap rates were so volatile and published on a weekly basis, fixation of 80 days in the guidelines prevented the company from obtaining a value which was having a mark to market value and this was further compounded by the fact that even the 80 days limit was not adhered to in 13 out of 30 cases and actual sale was transacted after a period ranging from 86 days to 211 days from the date of 'in principle' approval by the Board. During this period, several changes in the scrap rates were communicated in Clarkson Weekly. In all these cases except vessel M V Devprayag, actual realization obtained by the Company was lower by an amount ranging between USD 8.64/LDT and USD 89.47/LDT when compared with prevalent scrap rates published in Clarkson Weekly and resulted in less realization of ₹ 19.94 crore after taking into account the gain in one of the vessels. (Annexure-VI)

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The Management stated (November 2012) that the existing guidelines for the disposal of vessels did not specify the time period for individual activity from the date of 'in principle' approval to the date of tender. The 80 days limit was not applicable if the vessel was commercially employed. The reply further stated that detailed clarification and the process of attending to queries took some time.

The reply also admitted there was delay in the initiation of TES and the criteria of 115 days were not complied with and ensured future compliance. However, the Ministry stated (February 2013) that the proposal for disposal towards most of the vessels was initiated timely by the Operating Division and was approved by the Management approximately two months prior to disposal.

The reply was not acceptable as the decision to dispose of the vessel was taken based on the scrap rate published at the time of preparation of TES. Since the scrap rate was volatile, the Company should have considered revision of the scrap rate when the sale was concluded after 80 days from the TES date.

13.1.7.4 Delay in processing tender and avoidable expenditure of standing charges

As per guidelines/procedure for disposal of vessels, final disposal of vessels had to take place within 80 days from in-principle approval by the Board. The guidelines did not specify the number of days required for each step such as invitation of tender, evaluation of offers received, finalization of tender etc.

Company had not prescribed any milestones for internal activity. However, it was observed that in eight cases tenders were invited after the vessel was laid up, incurring avoidable expenditure of ₹ 2.24 crore on standing charges. This period ranged from one to 17 days as could be seen from **Annexure-VII**. Since invitation of tender and response of the bidder invariably also involved inspection of the vessel by prospective bidder, the Company in order to avoid these standing charges should cut the delays by issuance of tender notification in and around arrival of the vessel for lay up by effective planning. Any unexpected delay in arrival of vessel could be compensated by commensurate extension in submission of bids.

The Company agreed (November 2012) that the existing guidelines for disposal of vessels did not specify the time period for individual activities from the date of in-principle approval to the date of tender and further, stated that it was practically not possible to complete all the preliminary tendering procedures before lay-up of a vessel.

13.1.7.5 Inclusion of excess fuel oil

The Company obtained (November 2011) clarifications from various international publications including Clarkson Weekly regarding inclusion of cost of bunkers in the reported ship disposal prices. As per the clarifications received, the internationally reported prices were inclusive of minimum bunkers on board. Accordingly, the Ship Disposal Sub-Committee (SDC) recommended (December 2011) minimum quantity of 140 MT of Heavy Oil (basis 24 MT/day consumption x 5 days plus 15-20 tons unpumpable) and 75 MT of Diesel Oil (basis 2.5 MT/day consumption/30 days). Board in its meeting held on 13 January 2012 directed that the "management may set above benchmark for the quantity of bunker to be maintained on the vessels put up for disposals".

Taking into account the minimum quantity fixed, Audit applied these norms retrospectively to assess the extent to which the value of scrap obtained got reduced on account of excess bunker quantity in the previous disposals and observed that in 12 cases (**Annexure-VIII**) there was excess bunker available at the time of delivery which resulted in reduction of sales realization to the extent of ₹ 8.63 crore.

The Management/Ministry stated (November 2012/February 2013) the consumption of bunkers practically varied from vessel to vessel depending upon its age, size and the condition of its equipments. This fact was also recognized by the SDC while revising the guidelines for disposal.

The fact remained that Company had not set any benchmark for the quantity of bunker to be maintained on the vessels put up for disposal.

13.1.7.6 Deficiencies in process of tendering

As per the guidelines approved by the Company in the year 2010, tenders were to be processed by a Tender Processing Committee (TPC) comprising officers not below the level of General Manager from the Divisions of Finance, Operation and Technical and Off shore Services. The details of the vessels which were put up for disposal were to be advertised in Indian/foreign newspapers with communications to INSA, MSTC, various shipbrokers in the list of SCI. The tenderers would be asked to deposit the tender along with EMD in the tender box which would be unlocked and the tender documents removed after giving the serial numbers and initialed by the TPC members or their nominees. Scrutiny of 159 such tender documents against sale of 30 vessels revealed the following deficiencies:

- (i) Tender Register was not maintained to record the details of the tenders received for individual vessels.

The Management noted (November 2012) the above for future compliance.

- (ii) Although the guidelines stipulated that the agents were allowed to participate on behalf of the Principal on the basis of a specific authority letter issued by the Principal, in 36 tenders submitted by agents, proper authorization from Principal were not found to be attached with the tender documents. The authority letter needed to be attested by a Notary which was not found to have been done while submitting the tenders.

The Management stated (November 2012) that the authorization letters submitted by e-mail were not kept in the file. It was further stated that the requirement of receiving notarized authorisation letter was not mentioned in the existing guidelines. The reply was not acceptable as the authorisation letters duly signed by a Notary should have been attached to make it legally valid.

- (iii) Eight out of 159 tender documents did not have the signature of tenderer in the form. In case of vessel M T Sabarimala, though the vessel was sold to M/s Anisa Shipping, the tender documents had remained unsigned. Besides violation of guidelines, this had serious implications in case of backing out resulting in non-finalisation of tenders.

The Management noted (November 2012) the above for future compliance.

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- (iv) M/s Kalthia Ship Breaking Ltd. had submitted their offer for vessel M T Havildar Abdul Hamid PVC in the form purchased for vessel M T Lance Naik Karam Singh. When the acceptance letter was sent to the firm, the Company stated (August 2010) that they neither paid EMD nor quoted for the vessel M T Havildar Abdul Hamid PVC instead the offer was made for the vessel MT Lance Naik Karam Sigh PVC. However, in view of the 'long term cordial relations' the Company accepted the offer.

The Management accepted the observation and stated (November 2012) that this was done in the interest of the Company to avoid further delay in re-tendering.

- (v) Over and above this, 26 tenders submitted did not mention the name of the signatory, in 53 cases seal of the tenderer was not found to have been affixed in the requisite space provided and the address of witness and/or signatory was not mentioned in 95 cases. In 73 cases neither the name nor the signature of the witness were found to be affixed and in 26 cases, the details of EMD were not furnished.

The Management accepted (November 2012) the observation and noted the same for future compliance.

- (vi) As per the guidelines, all the corrections and overwritings in the tender documents were required to be initialed by the members of the TPC. However, it was observed that in 16 cases even when there were corrections in the most important details i.e., in respect of the amounts that were quoted, these were not found to have been initialed by the TPC. The instruction in respect of initials on the corrections on the tender form was an important control instruction to prevent malpractice and to maintain transparency and its non-compliance indicated that the process was significantly impaired.

The Management stated (November 2012) that the corrections were countersigned by the TPC members/representatives and in certain cases the same had been missed out inadvertently.

- (vii) In case of vessel M V Hardwar, offer forms for vessel M V Kanpur were used by M/s Holborn Shipping Inc. In case of vessel M T Nirmaljit Singh Sekhon, M/s JRD Industries used the form for "Further Trading" but quoted for "Scrapping" the vessel and the tender form submitted by M/s Ashapura Logistics Ltd. was not signed by TPC members as stipulated in the Guidelines for Disposal of Vessels. M/s Rossmere submitted their tender for the vessel M T Lance Naik Karam Singh in the tender form purchased for vessel M T Havildar Abdul Hamid. For vessel M V Varanasi, M/s Holborn Shipping Inc., Marshall Islands used the tender forms purchased for vessel M V Mandakini. All these tenders were treated as valid.

The Management admitted (November 2012) that M/s. Holborn Shipping Limited submitted the tender form meant for vessel M V Kanpur and this was brought to the notice of the party and corrections were made and signed by the TPC. We observed that the corrections were counter signed only by the witness. With regard to tender submitted by M/s Ashapura Logistics, the Management stated (November 2012) that this was inadvertently not initialed by the TPC members. The change of form in respect of vessel Varanasi by bidder M/s Holborn, the Management stated that the bidder inadvertently used the form of 'Mandakini' for Varanasi.

The Ministry stated (February 2013) that the Company has progressed to the electronic auction methodology for better transparency and smoothening of disposal processes.

13.1.7.7 Restricted competition on account of deficient practices

(A) Repeated Snap bids on account of backing out by H1

Tenders were invited (September 2009) for the disposal of vessels MT Naik Jadunath Singh PVC and MT CH Piru Singh PVC against which three and four offers were received respectively. Since H1 backed out in both cases, by obtaining verbal consent from CMD (21 October 2009) the Company invited Snap Bids (one in case of Vessel MT Naik Jadunath Singh PVC and two in case of Vessel MT CHM Piru Singh PVC). The details of offers received are given below:

Table 6

Vessel MT Naik Jadunath Singh PVC

Bidder's name	First tender (29-09-2009)		Remarks	Snap bid (22-10-2009)	
	Amount quoted in ₹/(USD)	Agent's name		Amount quoted (₹)	Remarks
Global Shiptrade.	18,41,01,000 (38,34,239)	Sandeep Mehta	Backed out*		
Marianna Shipping	16,85,80,665 (35,11,000)	Chandrakant Oza		16,35,24,825 (35,11,000)	
Sea Maritime Corp.	17,38,62,315 (36,21,000)	Pramod Gade		16,99,98,750 (36,50,000)	Sold (Oct. 09)

Vessel MT CHM Piru Singh PVC

Bidder's name	First tender (29-09-2009)			Snap bid (22-10-2009)		Snap bid II (05-11-2009)	
	Amount quoted in ₹/(USD)	Agent's name	Remarks	Amount quoted (₹)	Remarks	Amount quoted (₹)	Remarks
Global Shiptrade	18,92,00,000 (39,40,435.28)	Sandeep Mehta	Backed out*				
Excel International	18,24,57,000 (38,00,000)	Brahmadatt		17,69,85,000 (38,00,000)	Backed out*		
Marianna Shipping	16,85,80,665 (35,11,000)	Chandrakant Oza		16,35,24,825 (35,11,000)		17,65,45,521 (37,51,100)	Sold (Nov. 09)
Grand International	17,96,24,115 (37,41,000)	Pramod Gade		17,23,27,500 (37,00,000)		17,60,70,165 (37,41,000)	

**EMD of ₹20 lakh forfeited and blacklisted for three years*

It could be seen from the above that, in both tenders, all bidders except Shri Pramod Gade and Shri Chandrakant Oza, backed out and these two Agents (Pramod Gade and Chandrakant Oza) got one vessel each. Thus the chances of formation of cartel could not be ruled out. Even though M/s Global Shiptrade Pvt. Ltd represented by Shri. Sandeep

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Mehta was blacklisted by the Company for three years, the firm participated in eight tenders¹ thereafter, in the name of M/s Holborn Shipping Inc. and got one vessel (M V Patliputra).

The Management stated (November 2012) that since Shri Sandeep Mehta was merely acting as the buyer's agent in both the cases, there was no legal reason to stop M/s. Holborn Shipping from participating in SCI's tenders.

The above reply is not acceptable as Shri Sandeep Mehta of M/s Global Shiptrade Pvt. Ltd. participated in the tender for vessel Jadunath Singh as Managing Director. In case of another vessel (M V Hardwar), Shri Sandeep Mehta participated as Director of M/s. Holborn Shipping Inc. The address, phone No, fax number and e-mail address were same for both the Companies.

The Ministry stated (February 2013) that M/s. Holborn Shipping Inc., buyer of M V Pataliputra was neither blacklisted nor kept on hold from participating in the Company's tender for sale of ships. The reply further stated that a completely different entity cannot be denied participation for sale of ships because one of its Directors is also on the Board of a blacklisted Company.

However, the fact remained that the Company failed to verify the credentials of the bidding firms and the very purpose of blacklisting the firm was defeated. Further, Shri. Sandeep Mehta was not merely the Director of the Company but was participating in the tenders by signing the tender forms on behalf of both the Companies.

(B) The guidelines required giving wider publicity for disposal of vessels through intimation to INSA, MSTC and ship breakers association. Despite all the efforts as stated to have been done by the Company for enlarging the field for competition, it was observed that out of 30 vessels sold during the period, 3 agents cornered 13 vessels. Shri Shashank Agarwal submitted 13 offers representing eight² firms and got six vessels, Shri Pramod Gade submitted 14 offers representing five³ firms and got four vessels and Shri Rashmin Sharma submitted six offers representing four⁴ firms and got three vessels.

Review in audit of disposal of 30 vessels revealed that out of 159 tenders that were received, 79 offers (50 *per cent*) were submitted by agents of which 33 offers were submitted by 3 agents who had cornered 13 vessels out of 30.

- Shri Pramod Gade represented both the bidders viz., M/s Kalthia Ship Breaking on 17 August 2010 and M/s Rossmere International Ltd. on 24 August 2010 for vessel Karam Singh.
- Shri Shashank Agarwal and Shri Pramod Gade were the two agents who had participated in the tenders for the vessels Hamid and Karam Singh on behalf of

¹ *Devprayag, Hardwar, Kanpur, Mandakini, Murshidabad, Pataliputra, Uttarkashi, Varanasi*

² *Marianna Shipping Ltd., Anisa Shipping Ltd.(two vessels), Joplin Overseas Investment Ltd. (two vessels), Natalia Shipping Pvt Ltd, Karina Shipping Ltd. and Grand International Shipping Co.*

³ *R.L.Kalthia Ship Breaking Pvt. Ltd., Grand International Ltd., Sea Maritime, Powerful International and Rossmere International Ltd.*

⁴ *Karina Shipping Ltd., Natalia Shipping Pvt. Ltd., Sea Lion Marine Ltd. and Joplin Overseas Investments Pvt Ltd*

four different parties and grabbed one vessel each, indicating chances of cartel formation.

These three agents were found to be representing different firms of M/s GMS Inc., Dubai and M/s Wirana Shipping Corporation, Singapore. We further noticed that out of 30 vessels sold, M/s GMS Inc. and M/s Wirana Shipping Corporation, Singapore, Cash Buyers¹ acquired 16 vessels and four vessels respectively by representing through six² (GMS) and three³ (Wirana) firms.

Thus, limited members of firms/agents defeated the aim of fostering competition.

The Management stated (November 2012) that bidders such as M/s GMS Inc. and M/s. Wirana Shipping Corporation operate through many subsidiary companies registered in various countries across the world. Bidder representatives were merely representing their respective subsidiary/sister companies during various tenders of the Company. Although the companies are different by name and registration, they belong to the holding company.

The Ministry further stated (February 2013) that when the world's largest and second largest buyers of ships have competed in the Company's tenders for disposal and emerged successful, it is a testament to the fact that the Company's tenders have had global level of competition. Hence, the Company has not limited the competition.

However, the fact remained that the buyers of ships participating through the same set of agents restricted the scope for competitive quote.

13.1.7.8 Collection of EMD

(A) Deficiencies in the system of collection of EMD

The guidelines stipulate that the tenderer has to submit EMD up to 5 per cent of the expected sale value as per TES or ₹50 lakh whichever is lower.

Clauses 5 (ii) and 8 of General Terms and Conditions of tender prohibits the Company from adjusting any EMD paid for earlier tenders and EMD had to be either refunded to unsuccessful tenderers or adjusted as Security Deposit for the successful tenderer. However, the Company violated the rules as EMD paid by one bidder was adjusted for the bidding by another. The genuineness of the requests for changes/adjustments made by the agents was not verified by the Company with the principals.

The Company had not maintained any register for watching receipt of EMD and transfer of EMD as Security Deposit/adjustment towards other tenders/refund etc. In the absence of proper documentation, whether EMD was collected in all cases could not be ensured. Some of the illustrative cases highlighting deficiencies in the system of collection and reassignment of EMDs are highlighted below:

- (i) We observed that in 16 instances, the tenderers wanted the Company to adjust the EMD paid for earlier tenders and was accepted by the Company in all cases.

¹ *The term Cash Buyers in the ship breaking industry refers to companies that possess the financial strength to pay the value of the ships upfront without utilizing any kind of credit..*

² *Marianna Shipping Ltd., Anisa Shipping Ltd., Karina Shipping Ltd., Joplin Overseas Investment Ltd, Natalia Shipping Pvt. Limited and Sea Lion Marine Ltd.*

³ *Grand International Ltd., Sea Maritime and Powerful International.*

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- (ii) M/s Delmer Group PTE. Ltd., while submitting their offer for vessel M V Hardwar, attached a copy of swift payment (dated 14 Oct 2011) at New York as proof of EMD. However, the same was credited to the Company's account only on 21 October 2011. TPC accepted this offer while opening the tenders (14 October 2011) and the vessel was sold to M/s Delmer Group.

The Company stated (November 2012) that the above was accepted as an exceptional case and in the best interest of the Company. The above reply was not acceptable as the same is against Clause 5 (i) of the General Terms and Conditions of Tender.

- (iii) In respect of vessel Raghoba Rane, M/s Gurudev Enterprises submitted cheque for ₹ 50 lakh instead of demand draft/pay order which was to be credited to company's account before closing of tender submission. The tender was however, accepted.

The Management/Ministry stated (November 2012/February 2013) that the guidelines and tender conditions are silent on the acceptance of cheque towards EMD; hence the cheque was accepted as an exception in this case. The reply was not acceptable as the guidelines clearly specify that the EMD could be paid either by way of a Demand Draft/Bank's Pay Order or by way of a Bank Guarantee. As such, acceptance of cheque towards EMD was against the guidelines.

- (iv) In respect of vessel Raghoba Rane, another tenderer M/s. Grand International Shipping Company, Singapore did not remit the full amount of EMD in USD, instead requested to adjust balance amount from EMD remitted towards earlier tender not refunded. The amount available, however, was insufficient. But the tender was accepted by the Company

We observed that the swift payment was done by the firm on 2 August 2010 at 11:54 hrs at London (IST 16:30 hrs) after the tender was opened at 15:30 hrs. Thus, the Company allowed the offerer to participate in the tender without making the payment of EMD and avoided retendering and attached the swift copy with the tender form after opening of the tender. The nonpayment of EMD was qualified by the Internal Auditors also, however, the same was not considered by the TPC.

The Ministry stated (February 2013) that the time 11:54 Hrs (GMT) refers to the time of confirmation of swift payment by the bank and not the exact time of remittance. However, the fact remained that the swift payment was received by the Company well after the tender opening time of 15:30 Hrs (IST). Further, acceptance of EMD which is credited to Company's account after completion of tendering process defeated the very purpose of collection of EMD to qualify as a bidder.

(B) Forfeiture of EMD

As per Clause 11 of General Terms and conditions of tender, the EMD of the tenderer would be forfeited in case the offer of acceptance was rejected by the tenderer. We observed that in six cases*, the Company forfeited the EMD due to non-acceptance of the offer. In addition to forfeiting the EMD, the bidders were blacklisted for 3 years in case

* *M/s MV Shiptrade for vessel M V Lok Rajeshwari, M/s Attar Ltd and M/s Grand International for vessel M V Rishikesh, M/s Global Shiptrade for M T Naik Jadunath Singh and M T CHM Piru Singh and M/s Excel International for M T CHM Piru Singh*

of vessels Jadunath Singh and Piru Singh and one year in case of vessel M V Lok Rajeshwari and in the other two cases, the Company decided to forfeit the EMD without blacklisting the firms. We further observed that in case of M/s. Attar Ltd. the forfeited amount was lying in customer's account without accounting for it as Company's income and in case of M/s Grand International, the forfeited amount was refunded resulting in loss of ₹ 50 lakh.

The Management/Ministry had not furnished any reply.

Recommendation No.3: The procedure for receipt and accounting of EMD needs to be enforced.

(C) Discrepancy in buyers and agency remitting the EMD and sale proceeds

Audit observed that in 23 cases, the EMD was paid by a party other than the offerer. The details are given in **Annexure-IX**.

Audit further observed that in five cases the sale proceeds were paid by a party other than the buyer as given below:

Table 7

(In USD)

Sl. No.	Name of the vessel	Name of the Buyer	Payment received	Payer
1	M V Hardwar (for further trading)	M/s Delmer Group Pte. Limited, Singapore	65,58,694	M/s Ariel Maritime PTE. Limited, Singapore
2	M V Uttarkashi (for further trading)	M/s Grand International Limited, Singapore	49,06,870	M/s Wirana Private Limited,, Singapore
3	M V Lok Rajeshwari (for scrapping)	M/s Mickey Shipping Limited, Liberia	31,60,159	Part payment of US\$ 280690 made by M/s Mickey Metal and balance by Alloys Trading
4	M T Major Dhan Singh Thapa (for scrapping)	M/s Grand International Limited, Singapore	41,09,329	M/s DragonWell Corporation, Samoa
5	MT Major Somnath Sharma (for scrapping)	Powerful International Corp. Pvt Ltd.	30,65,075	M/s DragonWell Corporation, Samoa

The Management agreed (November 2012) that some sale proceeds were received from parties other than the buyers. However, the proceeds had been received through proper banking channel and the management did not see any money laundering aspects in these cases.

The reply was not acceptable as the payment from a party other than the buyer was in contravention of the provisions contained in the tender form as well as the Memorandum of Agreement which stipulated that the buyer had to make the payment. This also has legal and taxation implications with attendant reputation risk to a Government Company.

Recommendation No.4: System needs to be evolved to establish the identity of buyers to ensure transparency and to avoid legal and taxation issues having adverse implications on reputation of the company.

Conclusion

Though the Company has to dispose of the vessels that have passed their economic life to keep a robust young fleet, the procedures for disposal needs to be more transparent. The method of preparation of TES needs to be clearly documented and uniformly followed. A timeframe needs to be evolved for the entire process for various milestones from the in principle approval upto eventual disposal. Delays in initiating proposal for sale and processing of tenders should be avoided, so as to fetch maximum prices. The perpetuation of the practice of one agent representing more than one prospective buyer and one agent bidding for two firms for the same vessel had the potential for limiting competition. There was a need to put in place a system to plug the deficiencies like accounting of EMD for one vessel against another and flagrant non-compliance to tender procedure.