

HDW SUBMARINE DEAL

# The Scandal Surfaces

Prime Minister V.P. Singh resigned from Rajiv Gandhi's government in April 1987 after—in his capacity as defence minister—he ordered an investigation of possible pay-offs in the purchase of HDW submarines from a West German company. Even though the previous government exonerated itself, reports of wrongdoing persisted. Encouraged by the progress

made in the Bofors investigations, the Government ordered the CBI last fortnight to reopen the HDW case. After a preliminary investigation of government files, the CBI concluded: "There has been a dishonest or fraudulent diversion of funds of the Government of India." Charges have been filed and some important heads are likely to roll. An exclusive inside story.



## THE DEAL

**I**N February 1979, the Cabinet Committee on Political Affairs (CCPA), the apex body for approval of all international contracts, met under the stewardship of the then prime minister Morarji Desai and approved the acquisition of submarine-to-submarine killers (SSK) for the Indian Navy with a diving depth of 350 metres. The CCPA stipulated that the Indian Navy would pay for the transfer of technology and the indigenous co-production of four submarines, at an estimated cost of Rs 350 crore.

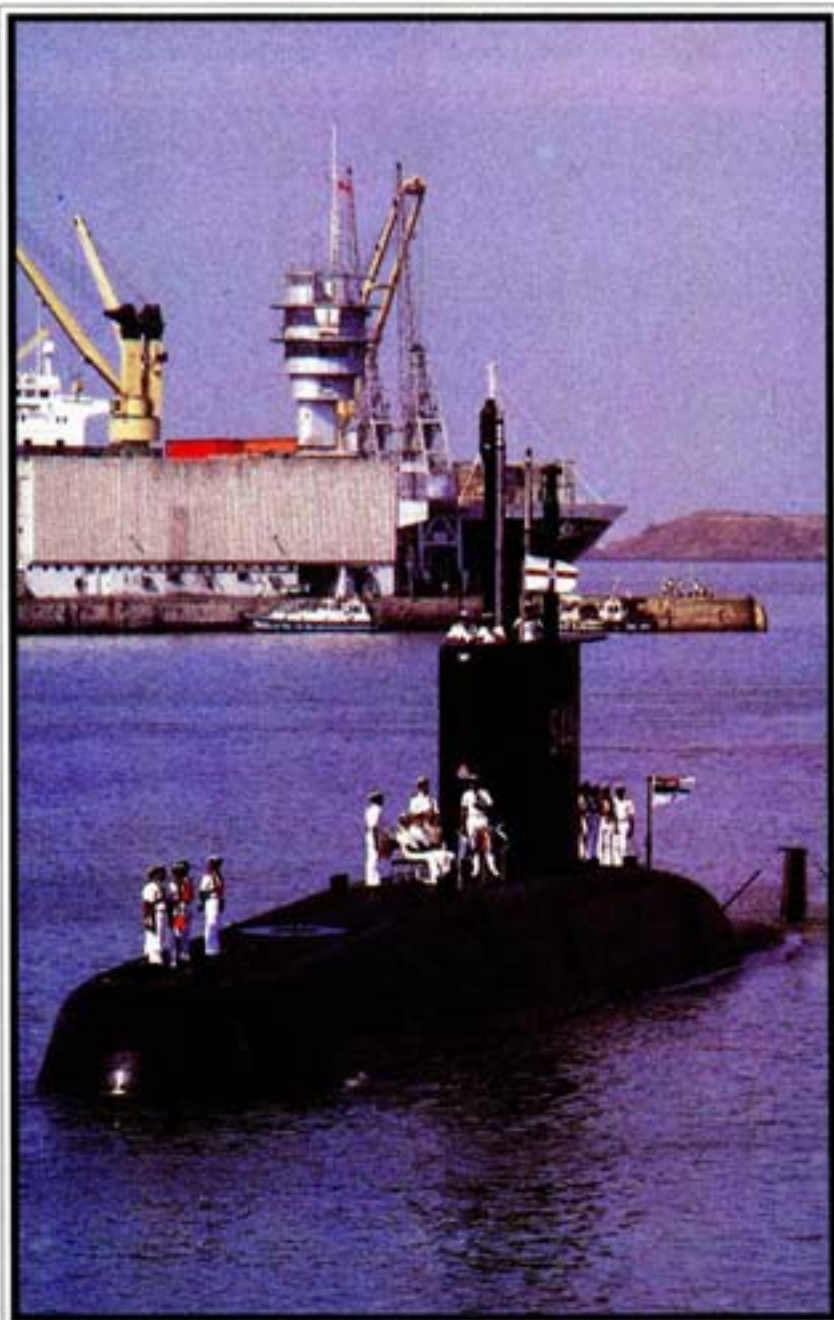
The same month, a nine-member negotiating committee, headed by additional secretary of defence M.K. Mukherjee, shortlisted four offers: the Kockums being pushed by a Swedish firm, the West German HDW, the Italian Sauro and the INS-1400.

Following clearance by the Cabinet, the vice-chief of naval staff appointed a six-member expert committee headed by Rear Admiral S.L. Sethi, that included Captain M. Kondath, who was the director (submarines) in March, 1979.

On May 16, the Sethi committee submitted its report to the vice-chief of naval staff. It gave the Swedish 45-Kockums first preference followed closely by the Italian Sauro submarine. Among the offers rejected at that time by this committee was that of West Germany's HDW because it had a diving depth of only 250 metres which was far short of the stated requirement of 350 metres.

But barely a month later, on June 15, HDW resurfaced as one of the contenders. The committee put HDW on its list with the proviso that it would be considered along with the others if it could improve its diving depth.

In the same month, a delegation of



officials from various ministries headed by Rear Admiral D.S. Painthal and including Captain Kondath, visited various shipyards in Europe and the US to survey the available options. The delegation firmly arrived at the conclusion that the best available product for the Indian Navy was the Kockums offered by the Swedes.

At about this juncture Indian politics underwent an upheaval. The Morarji Desai government bowed out of office and Charan Singh took over as prime minister of the country. With that also changed the composition of the CCPA.

**B**UT by this time, the Defence Ministry had prepared a draft paper for the CCPA listing the Kockums as the best buy at a cost of Rs 318 crore as against the more expensive HDW. The paper also recommended that the negotiating team should be reconstituted so that a quick and final selection could be made. But because of the political uncertainty at that time, the CCPA was unable to meet.

When it finally did meet—in early 1980—it was presided over by Mrs Indira Gandhi who had returned to power.

Since no selection had yet been made, all competing companies extended their offers until June 30, 1980. Routinely, the Defence Ministry forwarded its proposal in which Kockums and HDW were short-listed, to the new government. It also recommended that the negotiating committee should be headed by the secretary, defence production.

On April 10 of that year, the CCPA met under Mrs Gandhi. It approved the shortlisting of both Kockums and HDW. But it left the reconstitution of the committee to the prime minister.

When the original committee finally met on April 14, it was presided over not by the secretary but by S.S. Sidhu who had joined the Defence Ministry as its additional secretary. There was no written directive on this development from the Prime Minister's Office (PMO) and no official record of how Sidhu came to take charge.

Sidhu simply appeared at the meeting and announced that the CCPA had decided to constitute a new seven-member negotiating committee with him as chairman. Again, except for Sidhu's word, there is no record of this decision in government files. Other members of the committee were—B.M. Menon, financial adviser (defence services); S.K. Banerjee, solicitor, Ministry of Law; Vice-Admiral M.R. Schunker; Lt-General S.G. Payara, who was also chief co-ordinator (R&D); joint secretary D.N. Prashad; and Vice-Admiral N.R. Dutta, who was then chief of the Mazagon Docks.

From this point on the submarine deal took a new turn.

In May, 1980, the Sidhu committee toured Germany and Sweden. On May 17, 1980, the committee convened a formal meeting and made a sudden switch—from Kockums to HDW. The Kockums cost was now evaluated to have gone up to Rs 403 crore against Rs 332 crore for HDW.

On June 30, 1980, a week after the death of Sanjay Gandhi, the CCPA met and approved Sidhu's recommendation for placing an order for the HDW. But it also directed the committee to hold further negotiations. Sidhu was shortly replaced by S.K. Bhatnagar who for all intents and purposes presided over the proceedings and saw the deal through. It was finally signed on December 11, 1981.

The contract stipulated that four HDW submarines would be delivered at a total cost—that included the price of torpedoes—of Rs 465 crore after six years, by the end of 1987. Two more submarines, the contract said, would be ordered at a later date.

But by mid-1987 only two submarines had been delivered. And by this time, V.P. Singh was defence minister in the Rajiv Gandhi government. He received information that the Germans may have overcharged India and ordered that attempts should be made to renegotiate the prices and bring them down for the remaining two submarines.

That's when the first depth charge exploded. On February 24, 1987, J.C. Ajmani, India's ambassador in Bonn, sent a secret telegram to the Government saying that the Germans were not inclined to reduce the price because included in it was a 7 per cent commission they had paid to secure the contract.

Singh first saw this communication in April 1987 and ordered an immediate inquiry. And this started not only his dramatic break with Rajiv Gandhi but also the political fireworks which were to make history for the next two years. On April 12, three days after Singh ordered the inquiry, he resigned from the Government.



## THE CHARGES

**T**HE CBI was to file a first information report (FIR) in a New Delhi court listing seven names as the main accused in a criminal conspiracy to clinch the deal in favour of the HDW. They include: former defence secretary Bhatnagar; S.S. Sidhu, currently holding the prestigious post of secretary-general, International Civil Aviation Organisation; Captain Kondath; B.S. Ramaswamy, a former financial adviser to the Defence Ministry; directors and agents of HDW;

directors and agents of AEG-T West Germany, a firm which supplied torpedoes for the submarine; and directors of Ferrostal, another German company which was involved in negotiating the early stages of the deal.

The key allegations are:

- ▶ Indian civil servants failed to take a firm stand against HDW during the negotiations and accepted its unreasonable financial demands.
- ▶ Defence Ministry officials wrongly

## JUGGLING THE FIGURES

		SEPTEMBER 1979		MAY 1980	
	MAX. MARKS	KOCKUMS 45-B	HDW 1500	KOCKUMS 45-B	HDW 1500
BEST SUBMARINE	2000	1700	1640	1716	1709
MAINTENANCE AND LOGISTIC SUPPORT	800	685	675	645	695
TRANSFER OF TECHNOLOGY	1200	1085	1050	1060	1130
TOTAL POINTS	4000	3470	3365	3421	3534
COST OF FOUR SUBMARINES (in crores)		318.79 (including torpedoes)	336.81	403	332

calculated the total cost of the HDW offer which led to cost-overruns from the initial estimate of Rs 332 crore to Rs 465 crore.

► Senior officials and the members of the committee changed various technical and financial parameters in such a way

that HDW, which was second all along, came first.

► HDW, AEG-T and Ferrostaal changed their earlier price quotations and did not inform the government about the role played by Indian agents.



## THE ACCUSED

The present secretary-general of the International Civil Aviation Organisation at Montreal, S.S. Sidhu, 60, has been named as the prime accused in the FIR. According to the CBI, Sidhu manipulated the financial and technical details of various offers to ensure that HDW emerged as the winner.

Sidhu is accused of assigning himself the role of the negotiating committee chairman in April 1980. His undocumented appointment was accepted as a fait accompli. Sidhu is charged with not only concealing unfavourable recommendations by experts on the HDW submarines, but also misinforming the CCPA that the Germans were willing to sign a memorandum of under-

appointed adviser to the Tamil Nadu governor by the Rajiv Gandhi regime. Last year, the previous government sponsored him for a still more attractive assignment in which he earns \$6,000 (over Rs 1 lakh) per month tax free, along with a palatial house in Montreal, Canada.

Shashi Kant Bhatnagar, 59, who recently resigned as Sikkim governor following the change of government at the Centre, was to be named the second accused in the FIR. He is already under investigation for his role in the Bofors deal.

Bhatnagar replaced Sidhu as additional secretary, defence, at the end of 1980 and was responsible for finalising

the absence of sensitive data held back by the German Government.

Bhatnagar refused to divulge these concerns to the CCPA on the premise that it would cause "all round embarrassment". The CBI came to the conclusion that "Bhatnagar by conceding unreasonable demands of the HDW caused financial gain to the company at the expense of the Indian Government."

But the most serious allegation against Bhatnagar is that after he became the defence secretary, he was cabled by the Indian ambassador in Bonn, J.C. Ajmani, on February 24, 1987, that a secret 7 per cent commission had been paid to Indian agents in the deal. Bhatnagar made a notation on that cable. It says: "They (HDW) will be inclined to rescind the agreement of—7 per cent commission only. They may argue that it is due to the act of the Government." This note, which was erased from the cable with a white fluid before it was forwarded to the defence minister, was tantamount to an admission by Bhatnagar that a commission was paid in the deal—in sharp contrast to his later stand that the Government was unaware of any commissions. The deciphering of this note by the CBI through a chemical process has strengthened its case against Bhatnagar.

Yet another allegation

**Sidhu is charged with manipulating the financial and technical details of the various offers.**

PRASHANT PANJARI



**According to the CBI, Bhatnagar conceded unreasonable demands by HDW.**

standing on transfer of technology. In fact, the Germans, out of NATO security compulsions, were loath to do so and eventually did not.

Sidhu is also accused of including other concessions from the German company, such as spare parts, in such a way that the HDW package became cheaper than the Swedish Kockum (see table). According to the original negotiations, the four Kockums were for Rs 318.79 crore as against Rs 336.81 crore quoted by the HDW in February 1979.

The CBI concluded in its internal assessment that "Shri Sidhu, additional secretary, defence, prepared a hasty draft for the CCPA in which wrong projection of financial and technical evaluation along with distorted version of FRG Government support to the HDW deal was done to cause undue favours to the HDW".

When Sidhu retired in 1987, he was

the deal. He is accused of rejecting suggestions by negotiating committee members to place the deal afresh before the CCPA in view of the radically altered financial and technical parameters.

For example, in a meeting held on October 18, 1980, presided over by Bhatnagar, vice-Admiral M.R. Schunker made it clear that the HDW's technical specifications were not acceptable to the navy. Schunker also suggested that in view of HDW's adamant attitude, the Government should reopen dialogue with the Swedes. He noted that the HDW submarine's diving depth was 250 metres as against the navy's stated requirement of 350 metres. In another meeting in November, Schunker pointed out that the SUT torpedo to be supplied by another company, AEG-T, could not be evaluated in

against Bhatnagar is that he did not inform the Government about his meeting in New Delhi with a Dr Monitor, a senior West German defence official, and Mr Rathjens, managing director of HDW on February 27, 1987, three days after Ajmani's cable arrived. It was during this meeting, the CBI suspects, that the Germans and Bhatnagar conspired to take the official line that no commissions had been paid. The CBI, incidentally, has also discovered that the person who first informed ambassador Ajmani of the commissions was none other than Dr Monitor.

Captain M. Kondath left the service after the deal was signed in 1981. According to the CBI report, Kondath in his official capacity as director (submarine armament) played a key role in manipulating various figures in favour of HDW.

He was also member of the technical team which assessed the deal and the

other offers. In June 1980, he was appointed officer on special duty, ssk project. He has been accused of inflating the cost of the Kockums deal by including in it items which were not the part of the offer.

**T**HE major accusation is that he favoured HDW in order to secure a job with the German company after his retirement from the navy. Surprisingly, Kondath applied for premature retirement in September, 1980, two months after the CPA had approved the HDW deal. In his application, he said he was seeking retirement so that he could attend to his family and business in Coimbatore.

He retired on December 31, 1981. But within a month, he sought government approval to join HDW as its Delhi-based consultant for the implementation of the ssk project. Even though he was refused permission by the Defence Ministry, he continued accompanying AET (the tor-

pedo supplier) representatives to the Defence Ministry till 1985. And when Ferrostaal (a trading front company for HDW) opened its office in Delhi in 1985, Kondath joined the group. The CBI has charged him with "abusing his official position for favouring the HDW in order to gain future employment later on at a very high salary".

B.S. Ramaswamy was working as financial adviser to the Defence Ministry when the deal was being negotiated and finally signed. He was in charge of making a comparative cost-benefit analysis of the financial packages offered by HDW and Kockums.

The CBI has charged Ramaswamy of deliberately inflating the Kockums offer and thereby making HDW appear less expensive. He accomplished this, the FIR states, by applying a cost escalation formula to even the static cost of the transfer of technical know-how offered by

Kockums. This company had priced this transfer cost at Rs 25.49 crore. The cost was to remain constant irrespective of the date of signing of the final agreement.

Even the Public Accounts Committee (PAC) in its report to Parliament in March 1989, concluded that the Kockums deal was, in fact, cheaper than HDW by Rs 18.25 crore. The PAC disclosed that the fixed portion of price for know-how "relating to the offer of Kockums (Rs 25 crore) was wrongly included in the figures to be escalated". According to the CBI's calculations, the total project cost of Kockums would have been Rs 313.75 crore and not the Rs 349 crore worked out by Ramaswamy. But based on his own financial ledger, Ramaswamy had concluded that the HDW offer was cheaper by Rs 5.82 crore. The Government justified its final decision to buy the HDW on the basis of Ramaswamy's calculation.

—PRABHU CHAWLA

BOFORS

## The Noose Tightens

**I**F the success recently achieved by the three-member CBI team—led by Bhure Lal, joint secretary in the Prime Minister's Office (PMO)—during its first visit to Switzerland last month is any indication, the secrecy surrounding the Bofors pay-offs will soon be lifted.

The Swiss authorities not only froze the five accounts into which the money had been paid directly, they also ordered the freezing of another account into which money from the five accounts had gone. It is the identity of the real owner of this sixth account—held in a little known financial company, Pictet and Company, in Geneva—that is crucial for solving the Bofors mystery.

Speculation has already begun about the owner of this account in which a substantial sum—more than the total Bofors commission—is still lying. Predictably, the needle of suspicion points towards Ajitabh Bachchan as both Arcolab and Arcopharma—firms owned by him—have an account in Pictet and Company. The Bachchans, however, have denied any link with the account and have even alleged a conspiracy to forge documents against them.

Notwithstanding this allegation, the CBI is forging ahead with its investigations. It has served notices twice on Vin Chadha and G.P. Hinduja to depose before it.

But both of them are avoiding a personal appearance. While Chadha is elusive about his future action, Hinduja wants to be interrogated in London and not in New Delhi because he fears arrest. Says Hinduja: "My lawyers have already responded to the second letter. The first letter sent by my lawyers has still not been replied to by the CBI nor have they been furnished with the copy of the FIR."

Chadha and Hinduja are not the only ones under pressure. The CBI is also questioning the former defence secretary S.K. Bhatnagar and other officials involved with the deal. Former army chief K. Sundarji also met various officials of the Defence Ministry and the PMO and gave them useful leads.

Hinduja (left) and Bachchan: prime suspects



Simultaneously, the Government is applying pressure on both the Swiss and the Swedes hoping that at least one would yield results. It gave priority to the Swiss Government with which it had signed a memorandum of understanding under which the Swiss were bound to provide information on cases which were regarded as crimes under Swiss law.

The Government also sent an aide memoire to the Swedish Government early last month requesting it to extend help to the visiting CBI team. In a five-page secret document, it requested Sweden to make available the secret parts of the reports of the Swedish National Audit Bureau that deal with the exact payments made by Bofors to the intermediaries.

It also requested the Swedes to make available "all other materials and details concerning the precise amount paid, the services for which these amounts were paid, the names and addresses of the real recipients which might be available with the Government of Sweden, Swedish banks and other agencies".

The investigating officials are confident they will be able to extract information from Bhatnagar and others. But the final battle for uncovering the scam will be fought not on Indian soil, but overseas.

—PRABHU CHAWLA