

**PUBLIC ACCOUNTS COMMITTEE
(1974-75)**

HUNDRED AND FIFTY EIGHTH REPORT

(FIFTH LOK SABHA)

[Paragraph 16 of the Report of the Comptroller and Auditor General of India for the year 1971-72 Union Government (Civil), Revenue Receipts, Volume I (Irregular release of woollen garments under a misdeclaration as rags)]



**LOK SABHA SECRETARIAT
NEW DELHI**

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27	6.1	1	given under-stand	given to understand
33	7.10	7	whether is imported	whether he imported
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65	16.6	6	hereas	whereas
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100	20.10	13	Further, as	Further, in as
101	20.11	5	were evidently	where evidently
118	20.6	8-9	was inspection	was no inspection
119	20.7	3	chairman	Chairman

CONTENTS		PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1974-75)		(iii)
INTRODUCTION		(v)
REPORT		
CHAPTER I		3
CHAPTER II	Serious discrepancies in the figures relating to the import of woollen rags	4
CHAPTER III	Illegal concession shown by the "Customs" to import of unstripped woollens	10
CHAPTER IV	Definition of "rags"	21
CHAPTER V	Customs Department's inaction despite their awareness of the malpractice	25
CHAPTER VI	Duty liability and legality of allowing up to 5% serviceable garments.	27
CHAPTER VII	Import policy of woollen rags before May, 1972	31
CHAPTER VIII	Abuses of importing of serviceable garments as rags brought to the notice of the Ministry of Commerce and State Trading Corporation	38
CHAPTER IX	Lacuna in procedure for import by STC	42
CHAPTER X	Import policy	48
CHAPTER XI	Delay in taking action by the Textile Commissioner against misuse of import licence	50
CHAPTER XII	Involvement of Central Board of Excise & Customs	52
CHAPTER XIII	Law Ministry's opinion	67
CHAPTER XIV	Disposal of accumulate bales	71
CHAPTER XV	Procedure for mutilation of serviceable garments in docks and other places	77
CHAPTER XVI	Investigation by C. B. I.	82
CHAPTER XVII	Action taken against the parties for violation of the conditions of the import licences	88
CHAPTER XVIII	Action taken for violation of Foreign Exchange Regulations	90
CHAPTER XIX	A case reported by Revenue Intelligence closed	93
CHAPTER XX	Conclusions and Recommendations	97

(ii)

	PAGE
I. Copy of representation by the Wool and Woollen Export Promotion Council	103
II. Copy of letter dated 7-7-1972 from the Secretary, Foreign Trade to Member (Customs)	104
III. Copy of letter dated 15-7-1972 from the Member (Customs) to Secretary, Foreign Trade	105
IV. Copy of letter dated 20-7-1972 from the Minister of Foreign Trade to the Minister of Finance	106
V. Copy of letter dated 7-8-1972 from the Minister of Foreign Trade to the Minister of Finance	107
VI. Copy of letter dated 13-10-1972 from the Chairman, Central Board of Excise and Customs to the Officer on Special Duty, Ministry of Foreign Trade.	108
VII. Copy of letter dated 13-10-1972 from the Member (Customs) to the Collector of Customs (Bombay)	111
VIII. Copy of the letter dated 30-10-1972 from the officer on Special Duty to the Chairman, CBE & C	113
IX. Summary of main Conclusions Recommendations	115

PUBLIC ACCOUNTS COMMITTEE

(1974-75)

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SECRETARIAT

Shri B. K. Mukherjee—*Chief Legislative Committee Officer.*

Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

INTRODUCTION

1. I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Fifty-eighth Report of the Public Accounts Committee (Fifth Lok Sabha) on Paragraph 16 of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I—Irregular release of Woollen Garments under a misdeclaration as rags.

2. The Report of the Comptroller & Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I, Indirect Taxes was laid on the Table of the House on the 25th April, 1973. The Committee (1973-74) examined the paragraph of the sittings held on 17th (AN), 18th (FN & AN), 20th (AN) September, 1973, 7th December, 1973 (AN) and 30th January, 1975 (FN). The Committee (1974-75) considered and finalised this Report at their sitting held on 28th April, 1975 based on the evidence taken and further information furnished by the Ministries of Finance and Commerce. Minutes of these sittings form part II of the Report.

3. A statement containing summary of the main conclusions/ recommendations of the Committee is appended to the Report (Appendix). For facility of reference these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the commendable work done by the Public Accounts Committee (1973-74) in taking evidence and obtaining information for this Report.

5. The Committee place on record their appreciation of the assistance rendered to him in the examination of these paragraphs by the Comptroller and Auditor General of India.

6. The Committee would like to express their thanks to the officers of the Ministries of Finance and Commerce for the co-operation extended by them in giving information to the Committee.

NEW DELHI;
April 28, 1975.

Vasakha 8, 1897 (S).

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

IRREGULAR RELEASE OF WOOLLEN GARMENTS IMPORTED UNDER A MISDECLARATION AS RAGS

Audit Paragraph

Woollen garments, if imported are liable to customs duty under item 49(4) or 51(1) of the Indian Customs Tariff, as the case may be, at 100 per cent *ad valorem*. Woollen waste and woollen rags are, however, exempt from the whole of the customs duty, by virtue of exemption notifications, issued in 1959 and 1966.

In August 1961, the Government of India announced through executive instructions its decision to extend the exemption so far given to woollen rags to unstripped woollens imported by all woollen mills, subject to the following conditions, namely:

- (i) the importer claims the exemption at the time of import;
- (ii) the goods before clearance from the docks cut to small pieces so as to render them unfit for any use other than rags; and
- (iii) the wastage material obtained in stripping operation is destroyed under customs supervision.

The second condition was not to apply to cases where the Government of India (or the Board of Excise and Customs) has specifically allowed serviceable garments to be mutilated at a place near the destination where general supervision of a Gazetted Central Excise Officer would be possible.

In a major Custom House, during the period from April 1971 to March, 1972, 762 consignments containing 51,308 bales, declared to be 'woollen rags mutilated and unserviceable' were imported, the value of the consignments being Rs. 2.45 crores. Customs test inspection of some of these bales revealed that about 2,000 bales contained serviceable garments such as sweaters, skirts and half-coats, and not rags. Of the 51,308 bales, 747 bales were released on "Caution and mutilation" at the dock by the Custom House, and 2,598 bales were released after issuing caution to the importers and on condition that the goods were to be mutilated at destination and that certificate of such mutilation should be obtained and forwarded. However, 73 bales valued at Rs. 43,178 were released without mutilation, by an

order issued by the Collector, on the ground that serviceable garments constituted not more than five per cent of the quantity imported.

The extension of the exemption from duty given to unstripped woollens by executive instruction is legally not correct. Further, in the case reported, the nature and extent of mutilation carried out at the docks are not known; nor any specific orders of the Government of India or Central Board of Excise and Customs appear to have been issued for release of the serviceable garments in the bales referred to on condition for mutilation outside the docks. Again, the fixation of five per cent permissible limit for release of serviceable garments, by an order issued by the Collector has enabled the importers to avoid payment of duty.

Besides, the Custom House did not isolate and examine consignments, where examination or inspection by Customs Officers revealed serviceable garments.

The duty involved in respect of 3,345 bales of such garments released, is Rs. 18.98 lakhs. However, the extent of duty on all consignments imported is yet to be ascertained (December, 1972).

[Para 16 of the Report of the Comptroller and Auditor General of India for the year 1971-72—Union Government (Civil)—Revenue Receipts, Volume I, Indirect Taxes].

CHAPTER I

1.1. On an examination of the above Audit paragraph the Committee noted that the paragraph was only a symptom of an intensely deep and very pernicious malady eating into the vitals of the economy of the country because as would be seen from the succeeding chapters of this Report, there appeared to have been a well-organised and concerted attempt on the part of a few powerful elements with or without the deliberate connivance of several official agencies concerned at the top most level in the organised import of an unprecedented quantity of dutiable woollen garments under a misdeclaration as rags. The Committee noted during the examination of the evidence that there have been flagrant violations of the Customs Law and Foreign Exchange and Import Control Regulations, all supported by a matrix of irregularities. The Committee were, therefore, compelled to go deeper into the entire matter and examined the Commerce Ministry, the Customs Department, the State Trading Corporation and even the CBI and the Directorate of Revenue Intelligence.

1.2. As the succeeding Chapters would show, the painstaking examination of these various departments revealed that even the calculations made by the Committee regarding the extent of such unauthorised and irregular import of woollen garments would appear to be an under-estimate and only a full and detailed probe by an impartial Enquiry Commission would reveal the full magnitude and dimension of the activities which have aided considerably accumulation of black money, large scale smuggling and drain of slender resources through under-invoicing practised on a wide scale. As many material evidences gathered by the Committee are relevant in this regard, the Committee felt the need to bring out a separate report on this paragraph alone.

CHAPTER II

SERIOUS DISCREPANCIES IN THE FIGURES RELATING TO THE IMPORT OF "WOOLLEN RAGS"

2.1. In advance of evidence the Committee desired to know the total quantity imported as woollen rags and waste between August, 1961 and March, 1972. The Department of Revenue and Insurance submitted the following note:

"The figures relating to imports of rags for the period August, 1961 to March, 1972 as compiled from the Monthly Statistics of the Foreign Trade of India Volume II—Imports, published by the Government of India, Department of Commercial Intelligence and Statistics, Calcutta, are given below:

Period	Quantity Kgs.
August, 61-March, 62	Nil
April, 62-March, 63	Nil
April, 63-March, 64	Nil
April, 64-March, 65	Nil
April, 65-March, 66	20,43,895
April, 66-March, 67	15,67,741
April, 67-March, 68	20,69,465
April, 68-March, 69	11,62,876
April, 69-March, 70	33,34,532
April, 70-March, 71	35,87,679
April, 71-March, 72	1,10,43,394

2.2. However the spokesman of the STC gave the figures of imports during evidence on 17-9-73 thus "during 1971 the total quantity was 78 lakh kg. and the value was Rs. 1.38 crores, in 1970, the quantity was 62 lakh kg. and the value was Rs. 94 lakhs. These are calendar years." Asked to reconcile these figures with the figures furnished by the Department of Revenue and Insurance, the Finance

Secretary stated: "We shall have to reconcile the calendar year figures." He added: "We do not maintain the figures year by year and compile them. The daily figures are sent to the Director General of Commercial Intelligence and he compiles this information. But for the last three years 1970, 1971 and 1972, we have collected the figures from the customs houses because of this controversy. According to these figures, in 1970 the quantity was 62 lakh kg. and the declared c.i.f. value was Rs. 94 lakhs. In 1971, the quantity was 78 lakh kg. and the declared c.i.f. value was Rs. 138 lakhs. In 1972, upto October the quantity was 206 lakh kg. and the declared c.i.f. value was Rs. 362 lakhs. These are our figures."

2.3. In a communication dated 17th September, 1973, the Member, Customs had the following to state: "With reference to the directions given by the Chairman, Public Accounts Committee, the figures of clearances of woollen rags as specially compiled by the Collector of Customs, Bombay, on the basis of the Daily Trade Returns for the relevant periods have been reported by him as follows:—

Period	Quantity Kgs.	Value Kgs.
April, 70 to March, 71	73,00,000	1,14,00,000
*April, 71 to March, 72	1,42,00,000	2,50,00,000
April, 72 to March, 73 (First six months)	1,31,00,000	2,43,00,000

*The document for May, 1971 not being available, the figures for May, 1971 have been estimated as the average for months of April, 1971 and June, 1971.

2.4. We have already written to DGCI's and Collector of Customs, Bombay on 7th September, 1973 to reconcile these figures with those published by the DGCI&S, but no reply has been received so far.

2.5. Noting the considerable difference between the figures furnished in advance of evidence and those furnished subsequently, the Committee desired to know, at their sitting held on 18-9-1973 (FN), whether the customs figures were not available earlier. The Member, Customs stated: "Yesterday we did give the figures as compiled by our Collector of Customs on the calendar basis. We re-compiled on the financial year basis." Asked why, when the advance information based on the DGCIS's compilation was given on financial year basis, Customs figures were given earlier on calendar year basis and whether it was not to confuse the Committee, the Finance Secretary deposed: "I do not know how the Calendar year figures were compiled."

2.6. Explaining the object of bringing the calendar year, the Member, Customs stated: "We wanted to brief the Finance Secretary as to how the clearances were taking place and we found that it was from January, 1972 that the figures had shot up very high and therefore in the brief that we gave to the Finance Secretary, in order to bring the differences in contrast, we showed the figures for 1970 and 1971. We also showed the figures for 1972 which indicated a steep jump. That is why we have said in the brief—I am not quite sure but he had probably mentioned—that from January 1972 the figures had shot up."

When the Ministry of Commerce was asked about the exact figures imports of the so called rags, they furnished the following figures:

"Year	Value (In lakhs of Rs.)
1970-71	128
1971-72	270
1972-73	300
	698*

* (1) The above figures reflect high sea sales made licences released to L.A holders and not the value of material cleared through customs.

- (2) Figures where Letters of Authority are involved are estimated since some of the L/A holders files have been taken by CBI.
- (3) It has not been possible to give figures in respect of bales since STC's accounts are not maintained in that manner.
- (4) The item was canalised through STC only in November, 1967 and hence STC does not have figures of imports of woollen rags from August, 1961 onwards."

2.7. As these figures showed a significant variation from the other two sets of figures, the Finance Secretary was asked to explain this. He stated during evidence: "STC's figures are the sales made on the high sea and not the sales on the dock. So there will be a difference between the two figures."

2.8. In the advance information furnished to the Committee, the imports during the period August, 1961 to March, 1963 were given as nil. The Committee however pointed out that in a letter

No. 24/90 61-Cus. I dated 12th January, 1962 of the Central Board of Revenue copy of which was an annexure to that very statement, a mention had been made about the clearance of 13 bales of woollen rags against Bill of Entry dated 18-8-1961. Asked how the imports prior to March, 1965 were shown as 'nil', the Finance Secretary stated: "That is what I said yesterday that according to our record it is quite clear that rags were imported even in those years in which the return was nil." Asked how the figures of DGCIS were furnished without scrutiny, the Finance Secretary admitted: "That may be a lapse on our side." He added: "But, there was no motive."

2.9. Subsequently, in a note, the Ministry stated that in DGCIS's compilation certain quantity of import of woollen rags was misclassified under 'wool waste'. Presuming that the same mistake had been committed in the years 1961-62 to 1964-65, the Ministry furnished the following figures of 'wool waste' as per DGCIS Monthly Statistics Publication:

Year	Quantity (lakhs of Kgs.)	Value (lakhs of Rs.)
1961-62	28	46
1962-63	36	53
1963-64	16	24
1964-65	5	9

The Ministry further added: "It may be added that while every endeavour has been made to give whatever data could be had under the likely headings from the DGCIS's publication, it is not practicable at this distant date to rectify or quantify the errors in compilation that may have crept in or to say that the total of 'rags' and 'waste' represents the correct figure of clearances of rags." As regards the imports after 1964-65, the following figures were

furnished by the Ministry:

Year	Code No. 2670209 (quantity in lakhs of Kgs.)	Woollen rags (value in lakhs of Rs.)	Code No. 2629000 (quantity in lakhs of Kgs.)	Wool- waste value (in lakhs of Rs.)
1965-66	20	28	10	16
1965-67	16	28	9	18
1967-68	21	49	16	38
1968-69	12	24	15	30
1969-70	33	55	32	59
1970-71	30	59	48	80
1971-72	110	190	40	77
1972-73	139	254	36	67

It may be added that DGCIS's compilation is based on the dates of reporting of clearances which may be a long time after the physical arrival (import) of the goods.

2.10. In a note recorded on 7-1-1966 in the file No. 21/31/65-Cus. I, placed before the Committee by the Ministry of Finance, the following value of imports during the years 1960-61 to 1964-65 of woollen rags and waste were shown:—

Year	Value of imports (in lakhs of Rs.)
1960-61	76.82
1961-62	46.32
1962-63	53.26
1963-64	24.29
1964-65	8.70

2.11. From a copy of the note dated 18th November, 1972, prepared by the Chairman, Central Board of Excise and Customs, as a result of the meetings held in the Cabinet Secretary's room on 17th

November, 1972, it was seen that the total value of import of 'rags' since 1968-69 was as follows:

Year	Import under REP (in lakhs of rupees)	Import under AU licences
1968-69	3	110
1969-70	34	120
1970-71	31	58
1971-72	428	63
1972-73 (upto 30-9-73)	109	4

2.12. During evidence, it was stated by Member (Customs): "Various Ministries were concerned and inter-ministerial meetings were held in the Cabinet Secretary's room which was attended by the senior most officers from all the Ministries. As a result of these decisions which were conveyed to us by the Cabinet Secretariat and which actually had the approval of the Prime Minister, even on the basis of legal advice and various other things, instructions were issued "

CHAPTER III

ILLEGAL CONCESSION SHOWN BY THE "CUSTOMS" TO IMPORT OF UNSTRIPPED WOOLLEN

3.1. By issue of the executive instructions in August, 1961 referred to in the Audit paragraph, the exemption given for rags was extended to unstripped woollens. It is relevant in this connection to trace the origin of the exemption in the case of woollen rags and woollen waste. From a file (F. No. 17-1(9)/58-Cus. I) made available to the Committee, it was seen that exemption for woollen rags and woollen waste was granted in 1931 in the interest of the indigenous industry manufacturing cheap blankets and rugs and that in 1958 a question arose whether it was necessary to continue the exemption. In a note recorded on 14th February, 1958 by the Ministry of Commerce and Industry, the question of the need or otherwise for continuing the concession was asked to be examined quickly in view of a Parliament Question then tabled on the subject. Full particulars of the indigenous blankets and rugs industry (number of units, production, imports and exports, if any, of the raw materials, woollen waste and rags and finished products, manufacturing cost, competitive position in the light of the then import policy profit made by the Industry etc.) as well as information in regard to the extent to which the raw materials, viz., woollen rags and yarns were available within the country and the extent to which imports were necessary and had been taking place within the last few years were required to be gathered.

3.2. The Textile Commissioner would appear to have informed the Ministry that some 2.5 million pounds of shoddy wool and waste wool were being imported every year and that the import of all varieties of blankets and rugs had been banned. Further, according to the figures of the Textile Commissioner, nearly 3 million yards of blankets and rugs had been produced in the country. This was apart from the blankets and rugs produced by the handloom industry for which figures were not available.

3.3. The Textile Commissioner recommended that "since the woollen waste and woollen rags were essential raw materials for the manufacture of shoddy woollen yarn by and large consumed by the

handloom sector and that the finished products, viz., blankets and rugs made out of these imported materials were of a coarser variety used by lower income people and since the shoddy woollen yarn industry had not yet established itself in the country it would be necessary to continue the exemption." Nothing that export of blankets and rugs had not been very significant (it was of the value of Rs. 7.7 lakhs in 1957) and considering that the imposition of duty would not be healthy from the export angle, the Ministry of Commerce and Industry recommended the continuance of this exemption which was duly notified on 21st March, 1959, as follows:—

"GOVERNMENT OF INDIA

Ministry of Finance (Department of Revenue)

New Delhi, the 21st March, 1959

NOTIFICATION

CUSTOMS

No. 59—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby exempts woollen waste and rags, when imported into India or the State of Pondicherry, from the whole of the duty of customs leviable thereon.

Sd/-

Dy. Secy. to the Government of India."

3.4. Though this notification was issued in March, 1959, a request, according to a note given by the Ministry of Finance to the Committee, was made by M/s. Model Woollen Mills, Bombay in February, 1959 that they may be permitted to import unstripped woollen rags from abroad for the purpose of manufacture of shoddy yarn.

3.5. It is seen from file No. 51/2/59-Cus.I that this request of the Model Mills which was addressed to the Joint Secretary, Ministry of Finance (Revenue Division), Government of India, was forwarded to the Collector of Customs, Bombay, seeking certain information on several points of which one was specifically related to the difference between "rags in unstripped form" and second-hand woollen clothing normally imported for use as apparel. The Additional Collector in his reply stated: "Generally second-hand clo-

thing, imported as apparel are slightly defective or damaged. Nevertheless, they are good enough to be used as apparel by the poorer class of people. They are not altogether unserviceable and hence the priced fairly high at 10 shillings to 12 shillings a piece approximately. The 'rags in unstripped form' intended to be imported by the mill will be old and torn garments almost entirely useless and unfit for use as wearing apparel." To another question whether adequate facilities were available in the docks for the process of stripping to be carried out under Customs supervision, he replied: "No adequate facilities exist in the docks for stripping, etc. The operation of stripping etc., will have to be done in the mill under Customs supervision. In that case, the bales or the cases, as the case may be, will be delivered to the importers, duly sealed before their delivery. The seals will be inspected before the actual operation of stripping takes place under Customs supervision. In case the facility is granted to the importers, they will have to execute a bond in the usual way with a proper surety to cover the possible loss of duty in the event of their using the unstripped rags in any unauthorised manner."

3.6. On receipt of this report, the Chairman, Central Board of Revenue made a significant observation as follows:

"I have no objection in principle, but before agreeing to the concession the applicant firm should be asked, in view of para 2(vii) of Additional Collector of Customs, Bombay's letter dated 8th April, 1959, to produce a letter from the Bombay Port Trust that they would provide facilities in the docks for the stripping operation. Otherwise what will happen is that after the concession has been granted the petitioner will ask for the stripping to be done in this mill.

2. In any case the concession should be granted in the first instance for a period of six months if imports are regular or at the most for a year if imports are only once in a way

3.7. Accordingly a letter was issued to Model woollen Mills that the Government of India had decided to accede to the request as a special case subject to certain conditions and instructions in this behalf which had been issued to the Collector of Customs, Bombay. The terms and conditions communicated in letter No. 5(1)2/59-Cus.I,

dated 18th May, 1960 were as follows:—

- “(i) that the importers specifically claim the benefit of the exemption under Notification No. 59-Customs dated 21st March, 1959 at the time of import;
- (ii) that the goods before clearance from the docks are cut to small pieces as to render them unfit for any use other than as rags;
- (iii) that the waste material obtained in stripping operation is destroyed under Customs supervision.”

3.8. When this concession of allowing clearance of unstripped woollen rags as a special case was allowed in the case of Model Woollen Mills, representations were received from three more mills in August, 1960. The three mills were:

- (a) M/s. Arthur Import Export Co., Bombay.
- (b) M/s. Shree Krishna Woollen Mills Private Ltd., Bombay; and
- (c) M/s. National Woollen Mills, Bombay.

The concessions were extended to them also.

3.9. Subsequently on the basis of a report submitted in December, 1960 by the Collector of Customs Bombay, the concession initially given for six months as special case for these four firms were extended for a further period of six months upto 30th June, 1961. In April 1961, in the case of British India Corporation, Kanpur, the mutilation of serviceable garments which according to earlier orders should have been done at the docks was permitted to be done at the destination under the general supervision of a Gazetted Central Excise Officer. When a similar request was made by Everest Woollen Mills, the Ministry noted (File No. 24/25/61-Cus. I) as follows:—

“This facility has been granted to the firm as a special case in view of the difficulty of repacking the goods after mutilation in docks. Generally, we insist that the mutilation of garments should be done in docks under Customs supervision. M/s. Everest Woollen Mills have not adduced any reason to support their request. We may not accept their suggestion for mutilating the garments at their factory in the presence of the excise authorities.”

3.10. In June, 1961, the Collector of Customs, Bombay submitted a report about the working of the procedure and recommended the general extension of the concession to the other woollen mills. Having regard to the background of the orders of the Chairman and Additional Secretary in 1960, and the orders passed in the case of M/s. British India Corporation and Collector's report, departmental instructions were issued in Ministry's letter F. No. 24/25/61-Cus.I dated 16th August, 1961 to allow the exemption granted to woollen rags and waste under the Department's notification No. 59-Cus. dated 21st March, 1959 to unstripped woollens imported by all woollen mills subject to the condition that goods before clearance from the docks were cut to small pieces as to render them unfit for any use other than as rags.

3.11. Subsequently in letter dated 12th January, 1962, the Central Board of Revenue accepted a proposal made by the Collector of Customs, Bombay, that "Permission to importers of woollen rags to get serviceable garments mutilated at a place near the destination of the goods under the supervision of a Gazetted Central Excise Officer may be granted by the Chief Customs Officer." The Committee desired to look into this file so as to know the background of the proposals made by the Collector of Customs, Bombay and the Committee were informed that the file relating to these instructions had been destroyed in 1969.

3.12. Referring to the executive concession given, the Finance Secretary deposed during evidence: "There is no disagreement about the fact that a facility which was intended to be given to the actual users, i.e., shoddy spinners was abused grossly during the current year by various devices. I am quite clear in my mind that the strictest action will have to be taken against those who are responsible for this. I may point out that even now we found a great deal of administrative problem in opening bales in the Customs House—in the docks. In Customs Houses it cannot be done. When this facility was given in 1962, it was given to the actual shoddy spinners. It was considered that they could be given this facility of opening the bales in the importers or actual users premises where they can use machinery, etc., to mutilate the garments. This was done under proper supervision. I do not say that this supervision was tight or lax. This facility was given in 1962. The trouble arose only when the volume of imports became larger and people abused this facility for certain other purposes."

3.13. The Finance Secretary added further: "I would like to submit that since the year 1961, the Customs Department knew that the consignments which came under the name of rags also included discarded clothing and second hand clothing. A special procedure was laid down in 1961. As I submitted before, this was intended to give facility to the actual users, who spin shoddy and utilise it for inferior type of blankets, tweeds etc. This may have been misused by some people. I would not deny this. But it became a racket which caught out attention only during the current year. As soon as it came to the notice of the Government and the Board, proper action was taken to see that this malpractice is checked."

3.14. The Committee desired to know whether before giving the concessions in 1961 and 1962, Law Ministry was consulted. The Finance Secretary answered in the negative. The Chairman, Central Board of Excise and Customs stated: "At that stage, it was common practice to issue executive instructions, not the statutory notifications. The intention of the Government was clear that this should be covered by exemption."

3.15. In reply to a question, the Finance Secretary stated: "If your point is what was the legal basis for the issue of executive instructions in 1961-62, I would admit that there was no legal basis." He added: "I would only add that after the amendment of the Act in 1962, there was a power given to the Government and that should have been exercised by the issue of rules. That was unfortunately not done. It should have been done at that time." He further stated: "I was going to say that what was done by an executive instruction was not proper. It should have been given a legal cover. Since a legal authority was necessary and since that was taken in 1962, this could have been very easily done by framing the rules under Section 24 of the Customs Act, 1962."

3.16. Asked whether the Import Trade Regulation was not contravened in allowing import of second-hand garments and getting them mutilated, the Chairman, Central Board of Excise and Customs stated: "I would like it to go on record that so far as this executive instruction which allowed conditional imports is concerned it was given very wide publicity amongst the trade." It is no use for the Government or the Customs agency to tell the trade if you import discarded garments subject to those conditions and mutilate later they would not be subject to duty and simultaneously the Government says you have committed an offence under the Import

Trade Regulation. This position will become entirely contradictory for the Customs house agency."

3.17. From the file of the Ministry of Finance, Department of Revenue (Customs) placed before the Committee, it was seen that some firms were allowed to import unstripped woollen as rags free of duty, *vide* letter No. 24/71/70-Cus.I, dated 22nd August, 1960 subject to certain conditions specified in letter No. 5(1)/2/59-Cus.I, dated 18th May, 1960. The Committee enquired of the circumstances under which these orders were issued. The Member, Customs deposed: "The first letter in this connection was issued in May, 1960. This was on a request received from Model Woollen Mills, Bombay who had represented to the Government of India that unstripped garments cost about half of what it costs to import mutilated garments. This was the first request received by the Government. After that there were requests from M/s. Arthur Import and Export Co., Bombay; National Woollen Mills, Bombay and Shri Krishna Woollen Mills, Bombay."

3.18. The Committee desired to know whether M/s. Arthur Import and Export Co., Bombay; National Woollen Mills, Bombay and Shri Krishna Woollen Mills, Bombay were controlled by the same persons, the Member, Customs stated that "to their knowledge it was not so." Asked whether it was issued as a general order, he stated: "The first order issued in May 1960 was with regard to Model Woollen Mills, Bombay. The second order issued in August 1960 was in respect of the other three woollen mills of Bombay. The general orders were issued in August, 1961."

3.19. The Committee pointed out that from the file (No. 24/25/61-Cus.I) placed before them, it was seen that communications received by the Ministry dated 29-3-1961 from M/s. Arthur Import & Export Co., 5th July, 1961 from National Woollen Mills and 13th July, 1961 from Sri Krishna Woollen Mills appeared to have been sent by the same person either in the capacity of the Manager or the Secretary and that the telephone Nos. and the address of the premises given in the communications were the same. Thus the exemption had been given only to one group. Asked whether the Ministry was aware of the fact, the Member, Customs maintained: "As I said I did not know but we can check up."

3.20. In a note received from the Central Board of Direct Taxes, at the instance of the Committee, it was *inter alia* stated: "S/Shri R. N. Khanna and S. N. Puri existing partners in M/s. Arthur Import

& Export Co. have interests in the following concerns:

- (i) M/s. Arthur Import & Export Co., Bombay.
- (ii) M/s. Castle Hosiery Mills, Bombay.
- (iii) M/s. Central Cotton Co., Bombay.
- (iv) M/s. Krishna Trading Corpn., Bombay.
- (v) M/s. Shree Krishna Woollen Mills (P) Ltd., Bombay.
- (vi) M/s. R. K. Synthetics & Fibres (P) Ltd., Bombay.
- (vii) M/s. Crimpton (P) Ltd., Bombay.

Shri Khanna and Puri are not related to each other." The above facts were brought to the notice of the witnesses during evidence. The Member, Customs again stated: "I would like to clarify this. I said that I did not know but I can check up. Nothing has come to my notice." The Finance Secretary, however, stated: "The main point is, what is the duty of the Customs Officials when people like these who have got import licence to import rags ask for specific permission for mutilation at the docks; can they go into the question of finding out whether the import licence was properly issued or whether they were issued to parties who were functioning under three or four names or only one? If they did, then everything will be held up at the Customs office. The Customs Officers' duty is to give facilities and in this case when this request of Modella was received, the Board should have considered whether that request should be agreed to or not, not in terms of the request of Modella but in general terms; and if they have given this facility to one firm, then this facility should be given to all the firms. But I would submit that so far as the Customs Officers are concerned, I don't think they are expected to go into the question as long as the import licence was issued. If they did, everything will be held up at the Customs Office."

3.21. To another question, the Finance Secretary replied: "Customs are interested in intelligence relating to evasion of Customs duty that is, either under-invoicing or over-invoicing etc. They will not be interested in seeing whether certain parties are inter-linked or not. In this, the Board of Direct Taxes would be interested because this is one way of evading direct tax; but for Customs it does not very much matter whether the parties are working under three or four different names or are working under one single name. It does not make any difference to Customs."

3.22. Asked about the conditions imposed at the time of extending the exemption of duty to unstripped woollens and the period at which it was originally contemplated, the Member, Customs deposed: "Originally, the concession was given for six months. After that, the Collector was required to report as to how it was working. After that, it was extended for another six months and another report came from the Collector. Then it was extended generally in August, 1961."

3.23. The Committee desired to know the stages at which and the party in whose favour the concession of mutilation of garments after clearance from the docks and at the premises of the factory was first permitted. The Member, Customs stated: "From one of the files—in which the general order was given—we find that the concession had been given in favour of M/s. British India Corporation, Kanpur allowing them to mutilate in the mills, in April 1961." Stating that the concerned file was not traceable, he added: "We have made all efforts to trace it, but it is not available."

3.24. The Committee understood that Arthur Import & Export Co. was acting as agent of the foreign suppliers of woollen rags. They asked in how many cases the suppliers had agents in India. The representative of the STC stated: "The majority of them, 90 per cent are agents in India."

3.25. The Committee wanted to know the total quantity/value of import licences issued to Arthur Import & Export Co. and its associate concerns during the period 1961-62 to 1972-73 for import of woollen rags. The Ministry of Commerce submitted in a note as follows:

"The import of woollen rags was canalised through STC only in November, 1967 and hence we have data only from that month onwards. Shree Krishna Woollen Mills, Bombay and India Shoddy Mills, Bombay are according to the best of our knowledge and information associate concerns of Arthur Import Export Co. The value of actual

user allocation issued in favour of these firms from November, 1967 till date are given below:

Period	Value of AU Allocations
Oct. 67-March, 68	8,36,294.29
April, 68-Sept., 68	7,77,890.00
Oct., 68 to March, 69	1,24,829.52
April, 69-Sept., 69	1,78,405.90
Oct., 69-March, 70	5,77,238.00
April, 70-Sept., 70	6,51,333.84
Oct., 1970-March, 71	1,33,477.20
April, 71-Sept., 71	1,36,676.00
Oct., 71-March, 72	3,78,040.00
April, 72-Sept., 72	18,90,200.00
Oct., 72-Sept., 73	11,23,796.60
Total —	44,30,181.25

(i) *India Shoddy Mills, Bombay*

Oct, 67-March, 68	3,20,583.16
April, 68-Sept., 68	3,00,546.20
Oct., 68-March, 69	50,087.12
April, 69-Sept., 69	70,087.12
Oct., 69-March, 70	Nil
Oct., 70- March, 71	1,18,082.30
April, 71-Sept., 71	1,18,082.30
Oct., 71-Sept., 72)	20,15,001.38
Oct., 72-Sept., 73)	
Total :	29,92,499.48

3.26. The Committee further desired to know the number of cases of imports of woollen rags by or on behalf of STC in which Arthur Import & Export Co. acted as agent or importers' representative or exporters' representative or in any other manner connected with the imports. The Ministry of Commerce stated in a note as under:

"Arthur Import Export Co. acted as agents/Overseas exporters' representatives in the case of the following foreign suppliers of woollen rags:

1. M/s. Ikeuchi & Co. Japan.
2. M/s. Waste Wool, Australia.
3. M/s. Sisco Traders, USA.
4. M/s. Kessllers (wool) Wool Bradford Ltd., Bradford.
5. M/s. B. L. Kessel, Austraila.
6. M/s. Davis Trading & Supplying, Canada.
7. Jhon Hardy Bradford Ltd., Bradford."

3.27. Information as to the importers on whose behalf the same concerns acted as importing agents has not been furnished. The preceding chapters show that the 'trickle' of illegal relaxation of the Customs Act was started for the benefit of this concern and its associates. Persons operating behind these firms appear to have been part of a group of operators which led to the gross abuse of the concessions in the years from 67-68 onwards.

CHAPTER IV

DEFINITION OF "RAGS"

4.1. The Committee desired to know how unstripped woollen garments could be regarded as rags and in that connection the Committee wanted to know from the Chairman, Central Board of Excise and customs and the Secretary, Ministry of Finance, whether any guidelines had been issued as to what constituted rags. The Chairman replied as follows:

"So far as rags were concerned, nobody went into its proper dictionary meaning. Its meaning is 'properly mutilated'. When in 1961-62, we saw that these things were not coming in properly mutilated form for various reasons, we at this stage sought the powers that mutilation should be firstly done after arrival and then in the importers' own godowns. At this stage, the meaning as we understood of rags was something which is not worth wearing."

4.2. The Secretary, Ministry of Finance, however, added:

"I would like to submit that since the year 1961, the Customs Department knew that the consignments which came under the name of rags also including discarded clothing and second-hand clothing. A special procedure was laid down in 1961. As I submitted before, this was intended to give facility to the actual users, who spin shoddy and utilise it for inferior type of blankets, tweeds etc. This may have been misused by some people. I would not deny this. But it became a racket which caught our attention only during the current year. As soon as it came to the notice of the Government and the Board, proper action was taken to see that this malpractice is checked."

4.3. The Finance Secretary stated that some of the dictionaries including Webster dictionary had mentioned that rags would include discarded garments also. When asked whether Import Trade Control Schedule had any definition of rags, the Chairman, Central Board of Excise and Customs stated there was no such definition. However, the Secretary quoting the Law Ministry's view, informed

the Committee that both the Oxford Dictionary and the Shorter Oxford Dictionary gave to the term 'rags' the meaning of small worthless fragment or shred of some woven material, or in the plural to denote ragged or tattered garments or cloths and that this meaning did not bring in 'wearable discarded garments'. Continuing to quote Law Ministry's opinion, the Secretary stated as follows:

"As against this, it might be mentioned that the import trade control schedule subsequently mentions second-hand clothing as a distinct article (Part IV, Item 222). In view of this, it may be contended that for the purposes of import trade control, second-hand clothing is distinct from woollen rags and that consequently, a licence to import woollen rags would not authorise the import of second-hand clothing. But as against this, the next para says that in the trade, the practice is that the second-hand clothing is sold at a certain price for a piece which varies piece to piece, whereas discarded clothing collected by the ragman is sold by weight. However, I agree with you that we will take another legal opinion."

4.4. The Law Ministry's representative who also examined conded that the Law Ministry's opinion was confined only to the question of taking action under the Import Trade Control. The Law Ministry's representative categorically stated that their opinion did not deal with the question of duty liability. When asked whether for purposes of Import Trade Control, there was any separate entry in Part IV of the Import Trade Control Schedule for import of second-hand clothing, the Law Ministry's representative admitted that Item 220 of Part IV related to second-hand clothing. In reply to a question whether import of any garment, woollen or otherwise, under a different licence which does not mention second-hand clothing, would be a contravention of the Import Trade Regulations, he replied: "As the hon. Chairman has seen our opinion, he would notice that we have adverted to this point. This is certainly a point in the Department's favour for proceeding against the individual."

4.5. As regards consequence of importation of article which is not covered by the licence under the proper Schedule, he replied as follows:

"I cannot say definitely off-hand. But normally it would make the person liable for departmental adjudication by the Customs authorities on the ground that the import is not an authorised import. He would also render himself

liable possibly for adjudication, penalty, confiscation and for prosecution."

4.6. The Committee learnt that the department had contended in an action before the Bombay High Court, in a writ matter, filed by some of the textile mills including Modella Woollen Mills Limited, that there was a contravention of the Customs Regulations and Import Trade Control in importing discarded garments as rags and in that connection, filed an affidavit which *inter alia* stated as follows:

"I crave leave to refer to and rely upon item No. 47 of Part V in the Import Trade Control Schedule of the Red Book list and item 220 of Part IV in the Import Trade Control Schedule and also item 49(4) and item 52 of the Indian Customs Tariff and Central Excise Tariff for their true meaning and effect when produced. The notification dated 21st March, 1959 referred to in the said paragraph and under which the exemption is granted to genuine woollen rags is superseded by the notification dated 20th April, 1966. I say that the exemption under the said notification is granted to genuine woollen rags and not to usable second-hand garments or second hand clothing. I say that the said 221 bales covered by the present petition contain substantial quantity of second hand clothing and therefore a warning was given to the petitioners as stated above and that with the said warning the said 221 bales were released by the Customs authorities. I say that the said 43 bales covered by the present petition contain substantial portion of woollen second-hand clothing and therefore the show cause notice for wrong importation is issued to the petitioners. In the circumstances I submit that the petitioners are not entitled to claim any exemption under the said notification as the said importation is not an importation of genuine woollen rags."

4.7. When confronted with the affidavit filed before the Bombay High Court which was contrary to the stand taken by the Department and its representatives before the Public Accounts Committee, the Secretary stated:

"The main difficulty which we faced was that, if we were to tell the Court that this was the Law Ministry's view and according to the Law Ministry's view, rags would include garments, then the whole case would have gone against us and we would have had to release all the bales, even

those 30,000 bales, without mutilation. This is what the court also felt; they said this was a case which was fit for compromise."

The Chairman, Central Board of Excise and Customs added:

"The statements before the High Court as well as everything said by the Committee are entirely true statements."

4.8. Contrary to the statements made by the Board's representative that 'nobody went into the proper dictionary meaning of rags' in the early stages and that a search for the correct meaning was made only when writs were filed before the court, the committee found that the term 'woollen rags' was actually defined in Board's letter No. 25/173/51/Cus. II dated 12th January, 1962 as follows:

"Woollen rags consists of cuttings and clippings from tailoring establishments and cuttings from new or used, old garments. Ordinarily, care is taken to remove the cotton or art silk lining materials from the garments, but little may find its way into the market."

CHAPTER V

CUSTOMS DEPARTMENT'S INACTION DESPITE THEIR AWARENESS OF THE MALPRACTICES

5.1. The Committee desired to know when the Government became aware of a regular conspiracy of importing ready-made garments in the guise of rags. To this, the reply of the Chairman of the Board was: "We became aware in August, 1972. In July, 1972 when it came to our notice that this sort of thing was happening, we went into this."

The Finance Secretary stated as follows:

"I would again submit that until the year 1971, 1972-73 the rags that were imported were mainly utilised by the actual users and there was not this kind of scandal any time during those years."

5.2. The Committee confronted the witnesses with a letter dated September, 1970 understood to have been seized by the Madras, Customs House in which certain code words were used. The codes were:

UNFS—Unstripped woollen flannels, original, carefully mutilated.

NWS—Men's jackets.

MSV—Men's overcoat.

5.3. Further, the Committee drew the attention of the witnesses to a letter written by Shri Abdul Ghani Dar, M.P. to the then Central Board of Revenue, informing the Board that those who were allowed to import woollen rags and woollen waste were abusing this facility. On receipt of this letter, the Board issued a letter on 31st May, 1966 to collectors of Customs and Central Excise as follows:

"I am directed to refer to Government of India, Ministry of Finance (Department of Revenue and Insurance) Notification No. 59-Customs dated 20th April, 1966 exempting woollen waste and rags from the basic duty of customs and to say that it has been brought to the notice of the

Board that the concession is allegedly abused by certain parties by importing serviceable garments described as waste and rags. The Board desires that care should be taken against such abuses and that any case of abuse noticed by you be reported to the Board."

5.4. The Collector of Customs, Bombay had on 10th October, 1966, reported that in the case of one consignment imported by M/s. Krishna Woollen Mills Pvt. Ltd., Bombay in July, 1964 under cover of B/E 622/123-15th July, 1964 was found to contain serviceable garments and that as the goods were found to be not *bona fide* rags a fine of Rs. 30,000 was imposed.

5.5. Further, on 17th November, 1965, earlier to the receipt of Mr. Dar's letter, there was a question in the Rajya Sabha by Shri Jagat Narayan, M. P. regarding the withdrawal of 40 per cent custom duty on woollen waste and woollen rags. In the course of the supplementary, the Hon. Member had stated that the importers of shoddy woollen do not prepare yarn but sell in the market in the form of woollen cloth. To that, the Minister replied that he had no information on this, but that the matter would be investigated.

5.6. When all these facts were put before the witnesses, the Finance Secretary stated: "Malpractices were already there."

5.7. In the light of the instances that came to the notice of the Board in 1966, the Parliament questions asked during 1965 and assurances given by the Minister, in the light of Shri Dar's letter to the Ministry and the circulars issued by the Ministry in 1966, the Committee wanted to know how the Board could contend that they knew the malpractices only in 1972 and not earlier. It was also put to the Board that the Board was aware all along but for reasons which they could only explain they were unwilling to take any stringent action with a view to preventing the malpractices.

5.8. That the Government was not only aware of the happening prior to 1972, but the Customs actually detected, during the period 1st January, 1971 to 8th November, 1972, 60 cases in which consignments declared as woollen rags were found to contain serviceable garments were admitted by the Chairman of the Central Board of Excise and Customs and he further informed the Committee that penal action taken in two cases was confined to a levy of small fine of Rs. 500 and that in all other cases, they were cautioned by the Customs authorities and the goods were released after mutilation.

CHAPTER VI

DUTY LIABILITY AND LEGALITY OF ALLOWING UPTO 5 PER CENT SERVICEABLE GARMENTS

6.1. The Committee were given understand that bulk of the import of these woollen rags was through the Bombay Customs House. According to the figures furnished to the Committee by the Member, Customs, a total quantity of 1.31 crore kgs. was imported in 1972-73, 1.42 crore kgs. was imported in 1971-72 and 73 lakh kgs. were imported in 1970-71. The total value of these comes nearly to Rs. 6 crores. The Committee understood that preliminary enquiries registered by CBI that some bales found to contain above 80 per cent serviceable garments. The Ministry of Finance intimated the rates of duty chargeable on second-hand clothing during the period 1970-71 to 1972-73 as follows:

Period	Rate of duty
1-3-69 to 28-2-70	100%
1-3-70 to 28-5-71	100%
29-5-71 to 12-12-71	100% plus 10% additional (countervailing) duty corresponding to excise duty leviable under item 22D of Central Excise Tariff.
TOTAL	120%
13-12-71 to 16-3-72	100% plus 2½% regulatory duty plus 10% additional (countervailing) duty corresponding to excise duty leviable under 22D of Central Excise Tariff.
TOTAL	122.75%
17-3-72 to 28-2-73	100% plus 10% regulatory duty plus 10% additional (countervailing) duty corresponding to excise duty leviable under item 22D of Central Excise Tariff.
TOTAL	131%

Note: Aditional (countervailing) duty corresponding to excise duty under item 22D of the Central Excise Tariff referer to above is leviable in respect of brassiers, shirts, a sorts, and trousers, all sorts, provided these articles bear a name or mark or brand name such as a symbol, a monogram, etc."

6.2. Asked why the duty applicable to the second-hand garments was not collected on serviceable garments imported as rags, the Chairman, Central Board of Excise and Customs stated: "If that was possible, we would have done it, as Civil servants. What was imported was rags subject to mutilation and I want this to go on record." When the Committee drew attention of the witness to the concluding portion of the Audit paragraph, namely, duty involved in respect of 3,345 bales of garments released is Rs. 18.93 lakhs, the Finance Secretary stated: "If you take the rags in the category of discarded garments then this question of duty does not arise. It is the advice of the Law Ministry that it is very difficult to say that the definition of 'rags' will not include 'discarded rags'. Therefore, a view has been taken that it will come under the exemption category. We have mutilated these rags. Once they are mutilated we cannot charge them a higher rate of duty. We shall have legal opinion again."

6.3. It was also stated that if the serviceable garments in consignment of woollen rags did not exceed 5 per cent, the "local practice" in the Bombay Customs House was to allow clearance of the entire consignment as woollen rags free of duty. When asked to state the authority for exempting 5 per cent and to produce a copy of the order fixing the limit of serviceable garments to 5 per cent and whether this limit was applicable to all Custom Houses or only to Bombay Customs House, the Ministry's reply was as follows:

6.4. The Collector of Customs, Bombay has stated that this practice seems to have been in vogue in his Customs House for a long time. No written order was produced introducing this exemption, nor did the Ministry attempt to justify the exemption on any legal authority. This 'practice' is mentioned in the Bombay Customs House Departmental Order dated 4th July, 1972. An extract from the departmental order referred to above is given below:

"It has been brought to the notice of the Department that several firms are indulging in the import of serviceable garments, nylon sarees, full length suiting, sweaters, etc., under the garb of woollen rags. This is a serious contravention not only for evading the Customs duty but also for flouting of Import Trade Control regulations. The following procedure should be followed with immediate effect for clearance of consignments said to contain woollen rags.

2. The Scrutinising Appraiser in the Group will order through examination of 10 per cent of the total number of bales (in the case of suspected parties, the percentage should be 25 per cent) after specifying 50 per cent of his choice and the remaining 50 per cent to be selected by the Docks Staff after inspection of the lot. The examination order will also direct the Docks Staff to indicate whether the consignments consist of serviceable garments or whether the consignments consist of different parts of garments which could be ultimately stitched to form complete serviceable garments. If on examination it is found that the consignments consist of serviceable garments, the Shed Staff should indicate the approximate percentage of such serviceable garments balewise and report the matter to the Scrutinising Appraiser accordingly.

3. The Shed Staff at the Docks will invariably inspect the lot and examine thoroughly the bales specified by the Scrutinising Appraiser and select the remaining after proper inspection of the lot. The representative samples from each bale should be forwarded to the Scrutinising Appraiser before the goods could be finally considered as bonafide rags or otherwise. The examination should also be occasionally supervised by A.C. (Docks) by surprise.

4. If the consignment is found to contain various parts of a garment namely front portion of a half coat or full coat, sleeves or back portion packed in such a way as to be stitched later on to form a complete serviceable garment. such parts of garments should not be treated as rags. These will have to be mutilated to make them unserviceable before they are released.

5. If the consignment is found to contain only a small percentage, say upto 5 per cent (five per cent), of serviceable garments, the matter could be reported in the examination report; neither mutilation nor ITC penal action need be taken. If the serviceable garments are found to be more than 5 per cent, the case should be put up for ITC action or merits. If the consignment is found to consist predominantly, i.e., more than 50 per cent of serviceable garments, penal action should have to be stiff. In all cases where serviceable garments in a consignment are more than 5 per cent the goods must not be released without proper mutilation, which should take place under Customs supervision on payment of partime fee and in Bombay only. In no case mutilation should be permitted outside Bombay."

6.5. From the above departmental order, it was seen that the Bombay Customs House tightened the procedure relating to testcheck of the consignment in view of the admitted fact that several firms were indulging in the import of serviceable garments, nylon sarees, suitings, sweaters under the guise of woollen rags. Surprisingly, however, this was relaxed subsequently on 30th December, 1972. The Committee tried to find out the reasons for this relaxation given by the Bombay Customs House. But they were not furnished with the complete and true background of this except that some instructions appeared to have been given to the Bombay Customs by the Member Customs Shri Abrol, during a visit to Bombay Customs House in November, 1972, when he was met by the representatives of the wool and Woollen Export Promotion Council led by one Shri Adya. It also came to light that the Member's visit to Bombay and instructions which changed the departmental order dated 4th July 1972, was a sequel to a letter received by him on 7th July 1972 from Shri H. Lal, the then Secretary, Foreign Trade. The reversal of the policy of tight control to liberalised check and the reasons thereof were indicated in a copy of a letter No. NSE 129/72/LE dated 6th October, 1972 from Collector of Customs House, Bombay to the Secretary, Central Board of Excise and Customs, New Delhi. The following extract from this letter is relevant:

"Member, Customs had expressed that we should not deviate very much from the policy which we have been following the recent past."

6.6. The Committee, in the context of permitting consignment to be released if serviceable garments content was only 5 per cent or less, desired to know whether there was any legal authority to pass a consignment consisting of serviceable garments free of duty whatever be the percentage thereof. The Finance Secretary replied: "If your point is what was the legal basis of the issue of executive instructions in 1962, I would admit that there was no legal basis."

6.7. The representative of the Law Ministry stated: "The question of percentage is not very significant. I do not appreciate the significance of percentage." To another question he replied: "Are these serviceable garments covered by an Import Control Permit? If they are, they can be. If they are not, they cannot be."

CHAPTER VII

IMPORT POLICY OF WOOLLEN RAGS BEFORE MAY 1972

7.1. A reference has already been made in Chapter I to the figures of the imports of the so called woollen rags as furnished by the Ministry of Commerce for the year 1970-71 to 1972-73. This figure was Rs. 698 lakhs for the years concerned. Naturally the Committee was concerned as to the reasons for allowing such huge imports at a heavy cost to the foreign exchange position.

7.2. The Committee was also concerned whether the shoddy industry which alone would require the woollen rags as raw material needed the huge quantity. Questions were therefore addressed to the Minister of Commerce and Officials of the Ministry were also orally examined on these issues.

7.3. In a note furnished to the Committee, the Ministry of Commerce stated that import of rags was being allowed to shoddy spinning units under the category of actual users since 1957. Import of rags was also allowed against export of woollen goods since 1957 as an Export Promotion Incentive Scheme. It was further stated that following devaluation in 1966, all such incentive schemes were abolished. The position between 1966 and 1968, was that exporters of woollen goods, including blankets, were not eligible to import of rags against their exports. During the same period, however, it may be mentioned that the items permissible for actual users were as contained in item 47 part V of the Red Book which included "raw wool, waste wool, shoddy wool and woollen rags." In the case of registered exporters however, only "raw wool" was permitted in the Registered Exporters Policy formulated on 1st April, 1968. Representations were received that this definition stood in the way of blanket exporters, who required rags as a raw material for their export production, from securing this material. It was, therefore, decided in May, 1968 that the definition applicable to registered exporter of woollen products would be the same as for an actual user. Accordingly Public Notice No. 78/ITC/PN/68 dated 9th May, 1968 was issued. This allowed import of "raw wool, waste wool, shoddy wool and woollen rags" as replenishment to the Registered Exporters against the export of products mentioned in earlier orders of 1st April, 1968 viz., (1) woollen carpets, rugs, druggets; (2) Woollen textiles, hosiery and

mixed fabrics; and (3) Readymade garments (other than readymade garments of natural silk).

7.4. As regards the foreign exchange allocation for the import of rags, the Commerce Secretary informed the Committee thus: "The import of rags for the period in question could take place in two ways. One was by the actual users who had shoddy spindles. This allocation was made by the Textile Commissioner. In the case of import of rags which took place against export, nobody had to make an allocation, because it was earned as a proportion on export. It was in a sense automatic with the scheme."

7.5. In a written reply, the Ministry of Commerce stated that the foreign exchange ceiling earmarked for shoddy sector for the period October, 1968, September, 1972 was as under:—

	(Rupees in crores)
Oct. 68-S: p. 69	1.5
Oct. 69-S: pt. 70	nil
Oct. 70-S: pt. 71	1.2
Oct. 71-S: pt. 72	1.5
Oct. 72-S: pt. 73	1.8

7.6. The Committee asked about the reasons for allowing import of rags to the manufacturers of worsted cloth who could not use them. The Commerce Secretary stated: "We had this scheme with an idea to restore to the party what has been the input in manufacturing the item that was exported. It does apply separately to each item. It applies to spectrum of goods and spectrum of raw materials."

7.7. The Committee enquired whether at the time of extending the facility of importing rags to the registered exporters, the Government was not aware that serviceable garments were being imported and sold as such in the market and if so what steps were taken to guard against such abuse. In a written reply, the Ministry of Commerce stated: "While Govt. were aware of this aspect, Ministry of Finance had taken the necessary safeguards by issuing instructions to avoid such abuse, vide their letter No. 24(25)/61-Cus.(1), dated the 16th August, 1961 which provided that the goods before the clearance from the docks were to be cut into small pieces to render them unfit for any use other than as rags. In certain cases

the Central Board of Excise & Customs could specifically allow serviceable garments to be mutilated at a place near the destination under the general supervision of a gazetted Central Excise Officer.

7.8. The Committee desired to know whether any review of replenishment scheme was ever carried out to ascertain the quantities of various items imported. The representative of the Ministry of Commerce deposed: "Actually there is no scientific system laid down. This must be admitted but in respect of each item, of each type of import or export, usually a study or assessment is carried out, not at any stated or regular interval. But from time to time particularly if there is any matter which requires immediate or serious attention of the Government by the officers concerned, then the Government looks into the requirement."

7.9. As regards the capacity of the shoddy industry to absorb woollen rags, the representative of the Ministry of Commerce stated that they had made an assessment of 50 lakh kgs. He added: "I would apply for a sort of correction to this figure of 50 lakh kgs. to the extent that we are probably meeting 75 per cent or so of the requirement of the shoddy industry. The rest of it is accounted for by the industry working at somewhat below its capacity and this cannot be helped in the situation."

7.10. As regards the quantity exported against replenishment quota, the representative of the Ministry of Commerce stated: "In regard to replenishment, of course, there is one basic difficulty which we will have to admit straightway. We may not know what quantity was imported. Because of the freedom of choice, as it were, which he has between the four types of wool, he might have imported any one of those items, without our knowing specifically whether is imported raw wool or woollen rags unless we make a further check to find out what was the specific item which he imported. In other words the choice was his."

7.11. Asked for the reasons for allowing the import of woollen rags which could not be used by worsted woollen manufacturers, the representative of the Ministry of Commerce stated: "I have nothing to add to what I said earlier. As far as I could see the rationale was that we could introduce an incentive (against exports)."

7.12. The following figures of imports of shoddy and wool waste and requirement of raw material by the shoddy sector of woollen in-

dustry for working two shifts were furnished to the Committee:

Year	Import of Shoddy and wool waste. Qty. in Million Kgs.	Installed shoddy Value in Million Rs.	spindles	Shoddy raw material requirement Kgs. Spindles (in Million Kg.)
1960-61	3.43	7.68
1961-62	5.90	10.50
1962-63	6.35	10.07	16,270	6.10
1963-64	7.14	12.87	16,270	6.10
1964-65	4.79	8.29	17,437	6.54
1965-66	2.44	3.34	18,013	6.75
1966-67*	0.95	1.85	18,393	6.90
1967-68	1.95	4.51	20,867	7.82
1968-69	1.50	2.96	21,667	8.12
1969-70	3.20	5.90	22,323	8.37
1970-71	4.81	7.95	22,563	8.46
1971-72	4.01	7.72	23,007	8.85
1972-73	1,600	9.15

*Value is in terms of devalued Rupees since June, 1966.

7.13. The Committee referred to a note written in a file in the Customs Department in January 1966. "It would be observed from the figures above that the import of woollen waste and rags has considerably decreased. This is presumably on account of the fact that the availability of such waste and rags indigenously has increased."

7.14. The Commerce Secretary stated: "I would submit that the gentleman who had written this note was not correct. His presumption that raw materials were available indigenously is not correct. . . . I would like to say very categorically that we have never been self-sufficient in shoddy. Even this year we are importing Rs. 1.8 crores worth of raw materials for this purpose."

7.14. Asked about indigenous availability of rags, the Textile Commissioner stated: "The indigenous availability of rags is almost negligible as far as shoddy industry is concerned. They are dependent entirely on the imported rags for this purpose." Asked if any statistics were available, the witness stated: "We don't have statistics." The Commerce Secretary stated: "To the extent the quantity of second hand clothing becomes available, we may say, it is a kind of byproduct based on affluence of society. The question of rejection on a mass scale is just not there. The price of rag is about 2 to 3 rupees and where can you get at 2 to 5 rupees? Therefore, it is being used up and when it is available in the final stage it is no longer fit for being considered for the shoddy work."

7.15. The Committee desired to know the reasons for decrease in the imports of shoddy during the years 1964-65, 1965-66, 1966-67, 1967-68, 1968-69. In a note furnished to the Committee, the Ministry of Commerce stated: "At the time of the Chinese aggression in 1962 a special ceiling of Rs. 8 crores was made available for the import of woollen rags for meeting Defence needs. This was in addition to the normal foreign exchange ceiling made available to the shoddy sector. It is for this reason that the quantity of woollen rags imported showed an upward trend until 1963-64. During the year 1965-66 the normal foreign exchange ceiling to the woollen industry as a whole was not made available in view of the Pakistan war in October, 1965. An *ad-hoc* licence for a value of Rs. 2 crores was given in favour of the Indian Woollen Mills Federation out of which Rupees 25 lakhs were utilised for the needs of the shoddy sector. From the years 1966-67 onwards, about ten to twelve per cent of the total foreign exchange ceiling of the woollen industry was made available to the shoddy sector. With the decision of the Govt. to canalise the import of raw materials in November, 1967, S.T.C. experience certain teething troubles and it was in view of this reason that the quantity of imported woollen rags had declined during the years 1967-68 and 1968-69. After the working of the S.T.C. was stabilised normal imports started taking place. The quantity of shoddy rags imported from 1969-70 started rising though no foreign exchange ceiling was released for one period, namely, 1969-70.

7.16. Incidentally, it may be mentioned that from 1964-65, the classification of the Directorate General of Commercial Intelligence and Statistics, Calcutta, under Code No. 262. 9 thousands "wool and other animal hair and waste" had been taken for compilation of statistical data. Prior to 1964-65 the classification under code Numbers 262.6 Thousand "Wool shoddy" and 262.8 Thousand "Waste of wool and other animal hair" had been taken for compilation purposes. There

is a possibility that import figures pertaining to the shoddy rags had been included by the Director General of Commercial Intelligence and Statistics, Calcutta, under a different classification since in the statement furnished earlier the Heading was "Import of shoddy and woollen waste." The Textile Commissioner feels that the quantity of raw materials indicated in the statement already furnished, so far as it related to the post 1964-65 period may not be hundred per cent correct in view of the classification by the Directorate General of Commercial Intelligence and Statistics, Calcutta.

7.17. The Committee desired to know why the import of rags increased during the years 1971-72 and 1972-73, the Ministry of Commerce stated as follows:

- (1) Import duty of 40 per cent was imposed on import of greasy wool in May, 1971 while there was no duty on import of rags. As such the disparity in the price of greasy wool and woollen rags became much wider.
- (2) There was a combing bottleneck in 1971-72. Hence import of greasy wool, which was the raw material, involved considerable further problems to the importer in getting it combed.
- (3) Export of hosiery went up and with this the import replenishment, which was 60 per cent of the F.B.O. value of export also went up. This increased the scope of importing rags.
- (4) The restriction so imposed on import of woollen rags on 11th May, 1972 did not affect the operation of licences issued before change of policy.

7.18. The Joint Secretary, Commerce state: "In 1968, the exports (woollen hosiery) were of the order of Rs. 6.2 crores. In 1969-70, it was worth about Rs. 5.38 crores. In 1970-71, the exports were worth about Rs. 12.15 crores and in 1971-72, the exports of woollen hosiery were worth about Rs. 13.77 crores. Therefore, this scheme whereby an exporter of woollen hosiery qualifies himself to get any one of these 5 or 6 items of raw material, became actually an expanded scheme in that year."

7.19. The Finance Secretary stated: "There was abnormal increase in the price of wool from abroad. There was increase in export of hosiery from Rs. 5.4 crores in 1969-70 to Rs. 12 crores in 1970-71 and Rs. 13.8 crores in 1971-72. Instead of importing wool and wooltops they preferred to import rags."

7.20. Dealing with the reasons for the abuses the representative of the Ministry of Commerce deposed: "There are two points of attack, if I may say so. One is to restrict the import of rags whatever be the definition to those people who, we are sure, will use it in the production process. This was the object of the notification of May, 1972 which referred yesterday. The evil of abuse arose because rags had been allowed to be imported by a sector of the woollen industry which did not directly need it. This has now been curbed." He admitted that it was a fact that no particular check was exercised in the production process.

7.21. Dealing with the restriction of import, the representative of the Ministry of Commerce informed the Committee: "We have taken one step in this direction from May 1972, viz. to restrict the import of rags only to the needs of the shoddy industry, i.e., those who use it in their production line. We are checking the actual requirements of those units with reference to this import."

7.22. As regards the position prior to May, 1972 he added: "There was a condition at the back of every licence which said that the material that was imported, viz., the rags, should be utilised only by getting it spun by a shoddy spinner i.e., even if it is a hosiery manufacturer, he was required under the terms of the licence to pass it on and get it spun by a shoddy spinner."

CHAPTER VIII

ABUSES OF IMPORTING OF SERVICEABLE GARMENTS AS RAGS BROUGHT TO THE NOTICE OF THE MINISTRY OF COMMERCE AND STATE TRADING CORPORATION.

8.1. The Committee asked when the Commerce Ministry came to know about the abuse of importing second hand garments as rags, the Joint Secretary, Commerce, state: "It was in May, 1971 that the S.T.C. had written to the Collector of Customs, Bombay saying that some wearable garments were suspected of being imported in the guise of rags.

8.2. The Committee desired to know whether the Ministry of Commerce had issued any instructions to the CCIE that second-hand clothing could be regarded as rags and that accordingly the licences issued for rags would be valid for second-hand clothing also. The representative of the Ministry of Commerce stated that to the best of his recollection there were no such instructions.

8.3. The Committee understand that the Member, Customs had written to Audit as follows: "It may be stated that the Chief Controller of Imports and Exports and the Ministry of Foreign Trade have always been aware of the Customs practice to allow clearance of serviceable garments against licence of rags after ensuring mutilation...and no objection was raised. In fact, the Joint Controller of Imports and Exports in his letter No. I 80/REP/72-EPC/1557, dated...addressed to all Collectors intimated that it has been decided that all woollen rags against import release orders issued prior to 11th May...should be ripped before they are released from the ports."

8.4. Letter dated 27th May, 1971 from S.T.C. addressed to the Collector of Customs and Copy endorsed to the Textile Commissioner and Ministry of Foreign Trade, read as follows: "As you are aware the import of shoddy and rags for the Woollen Industry is canalised through STC. We have gradually taken over actual buying of shoddy and rags for both Organised and Decentralised sector instead of giving L/A facility. The shoddy and rags consist of old woollen garments which should be imported in mutilated condition. We have unconfirmed reports about importation of made-up garments

instead of mutilated either at the same port or in pieces at different ports.

8.5. We find from the analysis of the existing imports that bulk of shoddy and rags consignments are imported through Bombay Port and we presume that necessary inspection is being carried out on all such shoddy consignments prior to their release. However, if you feel that Customs should have assistance of people acquainted with specifications etc. to inspect the shoddy consignments, a Committee be constituted consisting of the representative of Textile Committee, STC and Customs to carry out sample inspection of shoddy consignments. This step would help in detecting unauthorised imports of made-up garments in the guise of shoddy and rags."

8.6. The Committee pointed that the Commerce Ministry had become aware of the abuse in 1965, as appeared from the following note recorded in the Ministry of Finance on a letter received from Shri Abul Ghani Dhar, M.P. : "The Hon'ble Member has stated in his letter that these manufacturers are exploiting the public and have suggested for necessary action against them. It may be submitted in this respect that during the course of reply to St. Qn. No. 287 on 17-11-65, in the Rajya Sabha, supplementary questions had been raised by the Hon. Member, Jagat Narain, to the effect that the concession was being abused by the importers of wool waste and rags. In this regard reports from the Collectors of Customs and the Ministry of Commerce on whose recommendations the concession was granted have already been called for."

8.7. The Finance Secretary stated: "We are not suggesting that there was no abuse of the facility even before 1970, abuse was there but it was comparatively on a small scale."

8.8. Besides alerting the Custom House, Bombay, the State Trading Corporation also wrote to the Shoddy Suppliers and their agents in India on 27th May, 1971 saying: "It has been reported that in some of the shoddy/rags consignments instead of the goods as per the specifications given in the contract, goods of different specifications have been imported either at one port or in piecemeal at different ports. We would like to request you to kindly ensure that in future all shoddy/rags shipments are made strictly in accordance with the specifications, prescribed in the Contract and in accordance with the provisions of the Indian Sea Customs Act. Please note that in case any irregularity is reported against your supplies, we would be constrained to remove your name from the list of our suppliers and would cease to deal with you for any item."

8.9. The Custom House, Bombay sent the following reply to the State Trading Corporation on 29th June, 1971: "No difficulty is being experienced by this Custom House in respect of examination of consignments of woollen rags. This Custom House is also aware about the possible importation of made-up garments by unscrupulous importers and wherever any infructions have been noticed, the Custom House has been releasing such consignments after penalising the importers and mutilation of goods. In the circumstances no useful purpose is likely to be served by constituting a Committee."

"Since imports of woollen rags are canalised through the State Trading Corporation, and indents are being approved by you, I shall be grateful if you can furnish this office with a list of importers whom you suspect are indulging in such malpractices so that a watch may be kept on their imports."

8.10. In the reply dated 16th July, 1971, the State Trading Corporation stated as follows:

"2. The import fall under two categories:—

- (a) Import by L.A. holders against E.P.S. licences.
- (b) Imports effected by STC on behalf to the actual users against allocation given to them by the Textile Commissioner.

3. The following type of material is suspected to be imported by the suppliers:—

- (a) made-up garments instead of unserviceable and mutilated woollen rags.
- (b) part of the made-up garments in different bale through one or more ports.
- (c) superior shoddy rags in the place of inferior rags contracted for.
- (d) pastel and light coloured rags (which are more costly) in lieu of dark and solid shades (which are less costly).

The list of foreign suppliers of rags is enclosed. Special watch may please be kept on the imports made from those names are asterick marked."*

*This list contained 18 names of foreign suppliers, out of which four were asterick marked.

8.11. The Committee asked why action was not taken by the State Trading Corporation to cease to deal with the suppliers in question immediately. The Director, S.T.C. stated during evidence: "How can we take action unless the Customs formally inform us?" He added: "It can be done only on the basis of the documents." The Commerce Secretary stated: "It is not so easy, particularly when the parties are outside India and they cannot go to our court." Asked how the S.T.C. came to know about the abuses, the Director, S.T.C. stated: "Because we found that the imports are rising.... We also heard rumours from general market that this trend is on the increase." Asked if the S.T.C. relied on rumours, the witness stated: "When heard that ready-made garments were coming in the name of rags we got suspicious." Asked if the S.T.C. had not confirmed reports about the abuses, the witness replied: "Not confirmed reports." In a written reply, the S.T.C. stated: "Rumours about the likely malpractices and the increasing interest shown by entitlement holders in Woollen rags made us write the letter to Customs."

8.12. It was pointed out to the S.T.C. that they themselves had furnished to Customs a list of 18 suppliers including 4 firms for a special watch. Asked why S.T.C. did not take action against these 4 firms at least, the Director S.T.C. stated: "We did not have definite proof." Pointing out that the lists of suppliers was supplied to the Custom House at their request, the Committee asked why the S.T.C. did not forward it *suo motu* with the first letter, the Director, S.T.C. replied: "If the Committee were formed as suggested by us, all the facts would have come to light." The Commerce Secretary stated: "The initiative, I would like to submit, was that of S.T.C. S.T.C. moved in the matter."

8.13. The Committee received an impression that the STC did not take prompt action to stop further business dealings with the firms found to have indulged in malpractices. In this connection they pointed out that a list of importers suspected to be indulging in malpractices was furnished by the STC only in October, 1971 to the Customs and that no further action was taken so far. To this, the Commerce Secretary reacted saying: "We have not— I am talking of everybody as a whole, we have not—moved fast enough. But our reply to point No. 13 exactly proves our point, although I am one with you, on this question that too much time was taken."

CHAPTER IX

LACUNA IN PROCEDURE FOR IMPORT BY STC

9.1. The Committee asked whether any suppliers of rags borne on the list of S.T.C. were previous to the canalisation supplying the material to the importers in India. The Director, S.T.C. stated: "We have now approximately 60 suppliers, 20 of whom are on the approved list of actual users prior to canalisation. We have added another 40 based on their recommendations to us, application for requisition made for us by the suppliers." The Committee asked whether S.T.C. negotiated on its own with individual importers of rags. In a written reply, it was stated: "The item was canalised through STC in November, 1967. From this date upto March 1970, STC only approved indents entered into by Indian importers with suppliers abroad. In the case of decentralised actual users and in the case of exporters and actual users in the organised sector, STC negotiated with the individual importers with effect from March, 1970 and August, 1971 respectively. The negotiations were with regard to the following:

- (1) Ascertaining the requirements of the Indian importers on account of the fact that quality varies not only from supplier to supplier within the same country but also from country to country as the rags are collected by the foreign suppliers from door to door. Such negotiations were also necessary because the requirements of the importers vary from time to time depending upon the needs of the fabricating unit and the proportion of different varieties of rags, namely, woollen rags, worsted rags and hosiery rags. At times, waste wool has also to be combined to manufacture the desired end product. Judicious blending of different colour combinations to suit a particular finished products is also necessary. The importers were, therefore, required to give to the STC their requirements in a form prescribed for the purpose so that the material may be purchased according to these requirements on a global purchase enquiry.
- (2) On receipt of the offers, the importers in India were invited to a purchase meeting at which the details of the

offers, specifications, delivery period etc. were made known to them for making a selection of the type of material that they wanted for their industries. On the basis of selection made by them purchases are made by the STC. In cases where the Indian importers feel that the prices quoted by the foreign suppliers are high for a particular specification of the material offered, counter offers are made to the foreign suppliers on the advice of the Indian importer. If these counter offers are accepted, contracting is done."

9.2. The Committee asked whether the importers were allowed to contact the foreign suppliers direct for imports. The Joint Secretary, Ministry of Commerce stated: "100 per cent of the actual users' portion is imported by the S.T.C. directly and is then made over to the actual users. In regard to the replenishment quota on which release orders are issued for 50 per cent, and letters of authority are given for the remaining 50 per cent, it was explained by the Director of STC that over the 50 per cent which the STC gets they are able to have a certain measure of control, although this was not hundred per cent fool proof, as has now been amply proved, until we took more severe steps in May, 1972." Till then the contract stipulated that pre-shipment inspection should take place and it was left at that. Even at that time, in respect of the remaining 50 per cent which was allowed to be imported by private parties against letters of authority, it has to be conceded, there was no procedure for pre-shipment inspection. He further confirmed that in the case of 50 per cent of imports against the replenishment quota, the importers had direct link with the firms which were exporting from abroad. The Director, State Trading Corporation, stated: "In the case of replenishment, they could import 50 per cent of the value of the goods direct and the STC approved the prices. In respect of other normal purchases, there is a Consultative Committee where the actual users come and choose the various specifications that are offered against various prices. There was no method of completely delinking the supplier because of the nature of the commodity. As I said, in the case of rags, specifications are not at all clear-cut. Therefore, very often, a particular source of supply is one of the methods of determining what the quality of the rags would be." The witness added: "Normally it is very difficult for the actual user not to know the source of supply. The sources of supply are those which have been approved by us and it is taken for granted that the parties to whom we have addressed the enquiries are reliable and reputed parties. It is difficult to prevent the actual users, in each and every case, from knowing the sources of supply."

9.3. In a written reply, the Ministry of Commerce stated: "During the period between November, 1967 and March, 1970 (in respect of decentralised shoddy sector) and November, 1967 to August, 1971 (in respect of organised shoddy sector and exporters) the entitlement holders were allowed to contact foreign parties direct for imports. Since March, 1970 in the case of decentralised sector, and since August, 1971 (in organised sector) the importers had to effect purchases through STC except in the case of 50 per cent of the REP entitlements for which the licensing authorities gave LAs (Letters of Authority)".

9.4. The Director, S.T.C. stated: "In case of letter of authority, we want to make sure that price is competitive. But there is the loophole possibly in the case of the letter of authority when the party might be acting in connivance with the source of supply."

9.5. To another question he replied: "At the time of selection it could be passed on. One could not have a foolproof method by which the source of supply could not be known."

9.6. The Committee asked why it is necessary to allow a number of varieties and qualities of rags which were required only for manufacture of blankets. The Joint Secretary Ministry of Commerce stated: So far as licences are concerned, it is correct that we do not as such describe the woollen rags. We say "Woollen rags". Asked if it was possible to bulk various type of rags to avoid contact between the user and supplier, the Director, S.T.C. stated: "There are varieties. One variety is priced at 7 NPK and the average price is of course around 10 NPK. But the point is bulking is possible in respect of certain specifications which would be required by specific users." Referring to the prices, the witness stated: "That is 10 to 11 new pence per kg. but it ranges from 7 new pence per kg. to 16.50 for one particular type. The periods are between 1967 to 1972. During 1972 itself the price ranged from 7 new pence per kg. depending on the nature of the rags, depending upon medium, dark, etc. depending also upon the wool content....."

9.7. Asked if any expert opinion had been obtained on the need to have that degree of sophistication in rags, the Joint Secretary, Commerce, stated: "We have spoken to the Textile Commissioner's office." The Director, STC stated: "We did persuade the Indian Shoddy Mills Association to accept the standardisation for this but so far we have not succeeded." Asked why instead of persuading the Industry, Government did not take a policy decision, the Finance Secretary stated: "The Finance Ministry will pursue the suggestion."

9.8. The Secretary, Commerce, stated: "The point was made that we could make efforts to limit it to buying in bulk so that people do not have the sophisticated varieties etc. We should certainly try to do that, but I would like to explain two things. One concerns higher price and higher varieties and types, about which my colleague from STC spoke. Even today it constitutes only about 10 per cent of the total. In other words, most of it is in the 9d, 8d range of price.

9.9. The second point is the demand for particular types of rags depending upon export orders which they are obtaining. We have been trying to send it to the blanket manufacturers, but even they come to STC with orders or enquiries from abroad asking them to produce particular types of blankets etc. We cannot entirely ignore the requirement which they have of particular types of rags because within the rags there are, fortunately or unfortunately, some classification."

9.10. The Committee desired to know the time lag between the dates of offers received from suppliers and acceptances. In a written reply furnished by the Ministry of Commerce, it was stated: "The average time lag between the date of offer by exporters or rags to and the date of acceptance of such offers is about 22 days. The maximum time lag is about 45 days and the minimum is 17 days."

9.11. Statement showing details of purchase enquiries floated, dates of floating of enquiry, dates of receipt of offers and dates of acceptance during the year 1971-72 was furnished to the Committee.

Purchase Enquiry No.	Date of Floating of enquiry	Date of Receipt of offers	Dates of Acceptances
A/71	14-4-71	26-4-71	11-6-71
B/71	21-7-71	30-7-71	24-8-71
C/71	5-10-71	20-10-71	26-11-71
A/72	1-1-72	10-1-72	8-2-72
B/72	22-3-72	28-3-72	No Business Finalised.

9.12. Adversing the role of S.T.C. the Finance Secretary stated: "In the first place the STC issued global tenders only in the case of actual users and for 50 percent of the registered exporters licences.

A specific condition was laid down that they should be mutilated before they are exported out of a country. But there was no pre-inspection. Not only that. Goods were delivered by the STC to the actual users and importers-cum-exporters on high seas so that there could not have been an inspection on their landing also. 50 percent of the registered exporters were given letters of authority and they were free to book their own goods from suppliers of their own choice. The STC only checked up the prices; there was no condition for mutilation abroad. It was only in May, 1973 that the STC made it obligatory that the certificate from approved inspection agencies overseas should be attached before the export. There were a lot of loopholes there."

9.13. The Director, STC, stated "It was a lacuna which could have been plugged. There should have been pre-shipment inspection even from the beginning. But what we did was this. Every letter of credit laid down specifically that the garments must be mutilated. Every invoice had a certificate from the suppliers' side that the garments were mutilated. It would have been preferable and much better to have done what we did later, from May, 1973."

9.14. Asked about condition laid in tender about mutilation of rags, the Ministry of Commerce stated in a written reply: "Although in tenders upto 1971 it was only specified woollen rags for shoddy industry, since then it was specifically stipulated that these should be cut, mutilated and made unserviceable. Even in 1971 contracts & LCs however stipulated mutilation condition."

9.15. Explaining the measures since taken by the STC to avoid malpractices, the Director, STC stated: "In the first place there is no letter of authority, But there is a 100 percent pre-shipment inspection; and there is a certificate by an independent agency and the letter of credit specifically states that before the shipment takes place, an international inspection agency must certify that all the garments have been mutilated 100 percent. We have taken all these precautions since May, 1973. To start with, we had only certificates confirming that the garments are mutilated. But from May, 1973, there is a specific condition that there should be 100 percent pre-shipment inspection and it is specifically stated in the letter."

9.16. It was further stated during evidence that the STC became suspicious because of the increase in the demands for the import of woollen rags. Asked whether the quantum of imports were not worked out at the time of issue of licences, the representative of

the STC stated: "According to the import licence, wool is interchangeable with rags. When you get the licence for raw material you can get this or some other articles against this licence. You can import wool including rags. So, in fact, it is naturally open to the actual user to decide whether he would like to import wool or rags or the item of this kind."

CHAPTER X

Import Policy

10.1. A telegram dated 18-6-1971 was received from the M/s. Madhu Wool Spinning Mills, Bombay suggesting that no replenishment for shoddy rags and wool waste should be allowed against the export of wasted woollen factories and hosiery. After consulting the Textile Commissioner, the Ministry of Foreign Trade communicated to the STC on 28th/30th July, 1971 their decision that (i) no worsted spinner if he has no shoddy spindles should be allowed to import shoddy rags unless he nominates a shoddy spinner for the purpose and (ii) no shoddy spinner should be allowed wool tops if he has no worsted spindles for the purpose.

10.2. In their letter dated the 2nd August, 1971, the S.T.C. had suggested that the Red Book might be amended to provide that hosiery/textile exporters would be allowed only raw wool/wool tops as replenishment. This was rejected and the STC was informed by the Ministry (D. O. on 4th September, 1971) that as all the allocations are subject to actual user condition, the hosiery/textile exporters would have essentially to nominate a shoddy spinner in case they wish to import shoddy raw material.

10.3. In a letter dated 7th October, 1971 the Indian Shoddy Mills Association, Bombay stated that no reply has been received to their earlier telegram of 6th September, 1971 suggesting to the Chairman, Central Board of Revenue that no consignments of shoddy rags from Canada supplied by certain firms be released without 100 per cent mutilation at port in the presence of representative of Indian Shoddy Mills Association, Textile Commissioner, Bombay, Senior Officials of Customs, and State Trading Corporation. It was mentioned by them that consignments were still being cleared without any proper check and that full coats were being sold freely which otherwise are meant to be used as raw material for conversion into yarn for production of cheap blankets and clothing by the shoddy spinning Mills. In a communication dated 16th October, 1971, addressed to the Joint Secretary, Ministry of Foreign Trade the Chief Marketing Officer of STC referring to the letter dated 7-10-71 from the Shoddy Mills Association again pointed out that "We have asked time and again the Ministry that the Red Book has to be revised so as to ensure that

the Textile exporters and hosiery exporters will only import raw wool and shoddy woollen rags and carpet exporters only raw wool and wool waste."

10.4. The S.T.C. was again informed on 5-11-71 that it being the canalising agency, the STC has "essentially to ensure that there is no abuse of import licences granted in the name of S.T.C. As import of garments against licence for rags is bound to attract criticism both in Parliament and outside, STC has to ensure that there is no abuse as appears to be existing. Regarding amendment of Red Book, it was stated that the same is not necessary. As all allocations are subject to Actual User condition, the STC was asked to submit to the Textile Commissioner a list of allocations of shoddy rags given to such persons who do not get any shoddy Actual User allocations; the Textile Commissioner was to proceed against them after examination as to whether the Actual User condition had been violated by them.

10.5. The question of import of rags against replenishment of woollen exports was discussed at the meeting of the Wool and Woollen Export Promotion Council held on 5th April, 1972. The Secretary, Foreign Trade, directed that there was no justification for import of rags as replenishment against the export of woollens other than blankets and the licensing authorities may be informed not to include rags in import replenishment licences. Foreign Trade Secretary's instructions were communicated to STC and CCI vide the Ministry's letter dt. 11th April, 1972. A Public Notice was issued on 11th May, 1972 by Chief Controller of Imports and Exports in consequence of the Ministry's decision. The implication of these orders was that rags will be allowed to be imported as replenishment only against exports of blankets or by actual users.

10.6. Thus after allowing imports of huge quantities of garments in the guise of woollen rags even when such rags were admittedly not required as raw material for most of the importers under the REP. Scheme and after disregarding even the belated warning of the STC that unless the red book was amended the abuse could not be prevented, the government has finally locked the stable in May, 1972 after the horse was stolen. This delay on the part of the Commerce Ministry is, in the opinion of the committee, deliberate and designed to benefit certain vested interests and parties against the interest of the nation and against the interest of the shoddy industry itself. What was the consideration that helped the Commerce Ministry's note till May, 1972 and who were the beneficiaries of this consideration is a task for the commission of enquiry, the appointment of which has been recommended in a subsequent chapter.

CHAPTER XI

DELAY IN TAKING ACTION BY THE TEXTILE COMMISSIONER AGAINST MISUSE OF IMPORT LICENCES

11.1. The Textile Commissioner, Bombay, wrote to S.T.C., New Delhi, on 8, 9th November, 1971, to take remedial measures to ensure against the misuse of import licences by hosiery exporters and had also requested S.T.C. to furnish particulars of all the units which had been allowed import of shoddy rags (other than authorised shoddy spinners). The S.T.C. in their letter dated the 23rd February, 1972, furnished to the Textile Commissioner a list of 75 exporters holding release orders and for whom S.T.C. had made purchases of woollen rags. This list contained names of five authorised shoddy spinners also. There was a repetition of the names of two units in that list. In effect, therefore, the number of exporters holding release orders for shoddy rags was 68 (66 of Amritsar Region and 2 of Bombay Region). The Textile Commissioner asked his Regional Officers at Bombay and Amritsar on 17th June, 1972, to verify consumption of imported woollen rags. So far as the Bombay Region is concerned, during October, 1972, the Bombay Regional Office submitted to the Textile Commissioner, Bombay, two reports pertaining to exporters and two pertaining to authorised shoddy spinners. There were no adverse remarks in the report relating to the two shoddy spinners. One case of exporter was reported to the Joint Chief Controller of Imports and Exports, Bombay, for necessary action by the Textile Commissioner on 15th November, 1972 in view of the clear contravention being established in the report of the Regional Office, Bombay. The report in respect of the other exporter was not clear about the contravention. It was subsequently felt by the Textile Commissioner in regard to the other exporter mentioned above that even such cases should be reported to the licensing authority in view of the S.T.C. having reported the booking of rags against release orders of these parties. Report in respect of one unit, namely, Messrs. Shree Krishna Woollen Mills, which is an authorised shoddy unit is yet to be received by the Textile Commissioner as this mill is not co-operating in respect of the verification.

11.2. Regarding Amritsar Region, out of the 68 units, report from the Regional Office was received by the Textile Commissioner

in respect of 17 units between July, 1972 and December, 1972 and these were reported by him to the Jt. CCI&E, Bombay, for further action on the 17th January, 1974, for the same reason as indicated in respect of the exporter from the Bombay Region as mentioned above.

11.3. In respect of the reports for remaining 51 units, the Regional Office of Textile Commissioner was reminded to expedite the report. On 20th February, 1974, a D.O. letter was issued by the Textile Commissioner's Office, Bombay, to the State Director of Industries requesting him to verify utilisation of imported raw materials in respect of hosiery exporters. In the last week of February, 1974, the Textile Commissioner, Bombay, received from Regional Office at Amritsar, 16 more reports which have been scrutinised by him and a report was being sent to the Joint Chief Controller of Imports and Exports, New Delhi. Out of these 16 cases, in 9 cases, the C.B.I. had seized the records and 16 cases are pending with the Regional Office, Amritsar. It has been reported by the Textile Commissioner's Regional Office, Amritsar, to the Textile Commissioner, Bombay, that in the case of 30 units no responsible person was available and no record was available for verification. One unit out of the remaining 5 cases could not be located by the Regional Office, Amritsar, in spite of its best efforts and inspection of 4 units is still to be carried out by it.

11.4. As the State Director of Industries is the sponsoring authority for small scale units in the hosiery sector, the Textile Commissioner, Bombay, has advised his Regional Office, Amritsar, to get in touch with the State Director of Industries for expediting reports in respect of the units covered by the list furnished by the S.T.C.

11.5. As regards the delay on the part of the S.T.C. in submitting to the Textile Commissioner a list of allocations of shoddy rags to such persons who did not get any shoddy actual users' allocation and the delay on the part of the Textile Commissioner in taking action thereon; the Commerce Secretary informed the Committee: "There is certainly room for doing these things faster. But, when we want to proceed legally against parties, certain procedure has to be followed."

CHAPTER XII

INVOLVEMENT OF THE CENTRAL BOARD OF EXCISE & CUSTOMS

12.1. On the 7th July, 1972. Secretary, Foreign Trade wrote to Members (Customs) enclosing a copy of the representation (Appendix I addressed to him by the Wool & Woollen Export Promotion Council. Secretary, Foreign Trade stated in the letter (Appendix II) that 14,000 bales valued roughly at about Rs. 1.5 crores were on the docks awaiting clearance was causing heavy demurrage and the imposition of duty at the rate of 220 per cent on import of garments though justified. "was punishing". It was, therefore, suggested that wearable apparel, which might have arrived for which incidentally the importer could not be held entirely responsible may be ripped and rendered unserviceable for utilisation as garments. thereafter the consignments could be cleared.

12.2. When asked to produce the file from which the letter issued the Ministry replied:

"There are no notes on the file leading to the issue of Foreign Trade Secretary's letter dated 7th July, 1972. Office copy of the letter together with the letter of the Chairman, Wool & Woollen Export Promotion Council was received after issue of Secretary's letter dated 7th July, 1972 to Member CBEC."

12.3. Asked about the basis for the issue of the letter dated 7th July, 1972 of the then Commerce Secretary to the Member, Customs, the Commerce Secretary stated during evidence: "I am told by my colleague, and I shall check up, that the Secretary had been given a copy of a letter from the Export Promotion Council which was referring to this 220 per cent."

12.4. On 15th July, 1972, the Member (Customs) sent a reply (Appendix III) to Foreign Trade Secretary in which it was stated that the Collector of Customs Bombay, who was contacted by Member, explained that majority of importers had not submitted their bills of entry for clearance of consignments. It was also stated in the letter that Member CBEC had issued instructions to the collector that ordinarily he may allow clearance of the goods on condition

that the "clothes are rendered unserviceable in the factories under Customs supervision for which expenses will have to be borne by the importer". It was further mentioned that extra scrutiny by customs staff had started on a reference made by CCI to the Collector of Customs, Bombay, in consequence of Ministry of Commerce's instructions disallowing import of rags in replenishment against exports of woollen hosiery fabrics and carpets.

12.5. In a note, the Ministry of Finance have stated:

"As indicated in M(Cus)'s reply, in view of the importance and urgency of the matter, because of heavy delays in clearance of a large number of bales M(Cus) had got in telephonic touch with Collector of Customs, Bombay and had issued necessary instructions on the 11th July on lines of the 1961 orders. A reply was then dictated and sent by him to the Foreign Trade Secretary indicating the action taken. After the reply was issued, Foreign Trade Secretary's letter and the reply were sent to the concerned Branch which placed it in the file concerning rags. There was thus no noting on the letter dated 7th July, 1972 from Secretary, Ministry of Foreign Trade."

12.6. On 20th July, 1972, former Minister of Foreign Trade wrote to the Finance Minister (Appendix IV) stating that there were reports that in lieu of shoddy rags made-up woollen garments were being imported for curbing which imposition of duty-cum-penalty at the rate of 220 per cent was justified. Minister of Foreign Trade also asked the Finance Minister to instruct the Central Board of Revenue to suitably direct their port officers to ensure against any laxity on the part of customs field staff in clearing serviceable garments without payment of duty. It was stated that about Rs. 2 crores worth of undeclared made up garments imported in lieu of rags are pending clearance at various ports especially at Bombay.

12.7. The Committee drew the attention of the witnesses to the letter dated 7th July, 1972 from the then Secretary, Ministry of Commerce to the Member, Customs and letter dated 20th July, 1972 from the then Minister of Commerce to the Finance Minister and asked whether there was no contradiction between the two. The Secretary, Ministry of Commerce stated: "The emphasis is different. May be, there is contradiction." Asked about the circumstances under which a letter from the then Minister of Commerce was issued, the Commerce Secretary went on to say: "I will just read it out. This is the minute recorded by the Minister of Foreign

Trade on 16th July, 1972, which is a date between the first letter and the second letter. He says:

"I agree to the import of rags (in future) only against export of blankets made from shoddy. They must export blankets made from shoddy first and then import rags. I take it that the pre-shipment export authorities can distinguish between blankets made by shoddy rags from that made of wool. Incidentally, I have come across several write-ups in newspapers alleging that in lieu of rags, serviceable garments are being imported. Now, since Customs have become vigilant apparently due to these Press reports, we should not interfere with their functioning by offering lenient terms to delinquent importers. I would like to address the Finance Minister suggesting stricter vigilance at Ports so as to ensure against any laxity on the part of customs field staff in clearing serviceable garments without payment of duty."

He recorded in that minute that he would like to address the Finance Minister, that full duty should be charged. Then, the letter was issued."

12.8. The Committee pointed out that the following Starred question was received in June 1972 and it was replied to on 21st August, 1972 in Rajya Sabha and that in the meantime, the then Commerce Minister wrote to the Finance Minister on 20th July, 1972:

MISUSE OF IMPORT ENTITLEMENTS BY EXPORTERS OF WOOLLENS.

Starred Question No. 428

Shri Bhupesh Gupta and others.

Will the Minister of Foreign Trade be pleased to state whether it has come to the notice of Government that some exporters of woollen goods have misused their import entitlements by importing woollen garments and disposing them in the open market at fancy prices and if so, what action has been taken against such exporters?"

Now, the reply came from the Deputy Minister in the Ministry of Foreign Trade:

“(1) & (2)—A statement is laid on the Table of the House.

- (a) Yes, Sir. It has come to the notice of my Ministry that against licences valid for the import of rags serviceable woollen garments have also been imported and that the wearable goods so imported might have been used as industrial raw materials.
- (b) The Minister of Finance has been requested to ensure that no wearable garments are cleared by the Customs as rags. Regarding wearable goods already cleared by the Customs, necessary steps are being taken to verify as to whether they have been used as industrial raw materials.”

12.9. The Joint Secretary, Ministry of Commerce submitted in a written communication dated 2nd February, 1974 as follows:

“Attention is invited to Commerce Secretary's evidence before the Public Accounts Committee on the 30th January, 1974, on the above subject. In the course of discussions, Chairman, P.A.C. desired to know whether the notice of the Rajya Sabha Starred Question No. 428 put by Sarvashri Balchandra Menon, Bhupesh Gupta and Yogendra Sharma on 21-8-1972 had been seen by the former Minister of Foreign Trade before he wrote to the Finance Minister suggesting that it may be ensured that Customs field staff do not show any laxity in clearing serviceable garments, without payment of required duty. On a scrutiny of the file pertaining to the above mentioned question, it has been ascertained that the notice of the above Rajya Sabha Question was for the first time received in this Ministry on 27th July, 1972 i.e. a week after the former Minister of Foreign Trade wrote his first letter to the Finance Minister. The file also indicates that former Minister of Foreign Trade saw the file for the first time on 20th August, 1972 while approving the draft reply to the Rajya Sabha Question. This was a month after the former Minister of Foreign Trade sent his first letter to the Finance Minister and 13 days after his second letter to the Finance Minister. These facts may be submitted to the Chairman, PAC for his information.”

12.10. On 7th August, 1972, Minister of Foreign Trade again wrote (Appendix V) to the Minister for Finance stating that a procession of 200 persons representing several hosiery associations of Ludhiana had met the Prime Minister and protested against continued clearance of ready-made garments against licences issued for import of garments. Minister of Foreign Trade advised Minister of Finance to take action on the lines suggested in his earlier letter of 20th July, 1972.

12.11. In a note, the Minister of Finance stated that the assumption made in the Minister of Commerce letter dated 20th July, 1972 that a duty of 220 per cent was chargeable on serviceable woollen garments is not correct. Serviceable garments when imported in consignments of rags were not assessed as second hand clothing, but were released after multilation in accordance with the Government's instruction dated 16-8-1961 and 12-1-1962.

The facts as illicited from audit however are as follows: In May 1972, the Bombay Customs House received complaints about the import of serviceable woollen garments. In the same month, the Chief Controller of Imports and Exports also wrote to the Bombay Custom House to the same effect. As a result of these complaints and information the Bombay Custom House tightened the procedure through the Departmental Order dated 4-7-1972.

12.12. The Chairman, Wool and Woollen Export Promotion Council, Bombay complained about the tightening of the procedure at the Bombay Custom House to the Foreign Trade Secretary in his letter dated the 7th July, 1972 (Incidentally according to copy of the letter dated 7th July, 1972, . . . the letter is addressed by Shri Adya to Shri K. Kishore but it forms an enclosure of Shri H. Lal's letter of the same date which starts with the statement that copy of the representation addressed to Shri H. Lal by the Wool and Woollen Export Promotion Council is enclosed).

12.13. The said letter was delivered to the Member, Customs on the 10th July, 1972 and on the 11th July, 1972 he gave certain instructions to the Collector of Customs, Bombay to make some relaxations over the revised procedure introduced by the Custom House on 4th July, 1972.

12.14. In pursuance of the above Instructions, the following relaxations were made, *inter alia*—

- (a) It was decided to give permission for multilation of the serviceable garments either in the mills of the importers

or at the final destination under the Supervision of Custom Local Central Excise authorities. (According to the instruction of 4-7-1972 mutilation of serviceable garments was restricted to be done under the Custom supervision only in Bombay).

- (b) The goods (i.e. the serviceable garments alongwith rags) were allowed to be cleared on the importers executing a bond for production of satisfactory proof of the serviceable garments having been duly mutilated under Customs/Central Excise Supervision. (According to the 4th July, 1972 instructions Custom House insisted that the Duty involved on the serviceable garments should be paid).
- (c) Certain revised instructions were issued on the 24th July, 1972 as stated in paragraph 2 of the Collector's letter..... (A copy of these instructions has not been sent).

12.15. The Minister of Foreign Trade wrote to the Finance Minister on 20th July, 1972 suggesting a tightening of the control. This letter was forwarded to the Collector of Customs on 28th July, 1972. The Minister of Commerce wrote to the Finance Minister again on 7-8-1972. By that time, on account of relaxations made in pursuance of Foreign Trade Secretary's letter as recounted above, the mischief had already been done. Thus on 21st July, 1972 there were 15,000 bales awaiting clearance in Bombay but on 3rd August, 1972 there were only 5,700 bales left uncleared.

12.16. Asked about the policy regarding import of second-hand garments, the Commerce Secretary stated during evidence: "I would like to confirm that the policy was second-hand clothing was not permitted to be imported and, if it was imported, it should have been in the shape of gifts.

12.17. As regards the procedure for the clearance of consignments the Member, Customs informed the Committee: "Various ministries were concerned and inter-ministerial meetings were held in the Cabinet Secretary's room which was attended by the seniormost officers from all the ministries. As a result of these decisions which were conveyed to us by the Cabinet Secretariat and which actually had the approval of the Prime Minister, even on the basis of the legal advice and various other things, instructions were issued. These are the instructions which were issued on 23-12-1972."

He further added. "I said that in a meeting in the Cabinet Secretariat in which the highest officials from various Ministries were present a decision was taken. After that particular meeting a note was circulated by the respective Ministries to the respective Ministers and those Ministers then jointly submitted their approval of the action to be taken to the Cabinet Secretary for submission to the Prime Minister and these things were then submitted to the Prime Minister; after approval by the Prime Minister the Cabinet Secretary sent us instructions."

12.18. On 8th September, 1972, Finance Secretary took a meeting to discuss the problems posed by excessive imports of woollen rags against REP licences and their nefarious utilisation. The meeting was attended by O.S.D. and Joint Secretary from the Ministry of Commerce and Chairman and Member, Central Board of Excise & Customs. The minutes of the discussion as recorded by the Member (Customs) on 15-9-1972 read as follows:—

The situation arising out of the importation in large quantities of serviceable garments along with rags under Export Promotion Licences was discussed between Finance Secretary and Officer on Special Duty (Foreign Trade) on the 8th September (Evening) in Finance Secretary's room. Chairman, OBEC, Joint Secretary, Ministry of Foreign Trade and I were present. The background of the case was explained by officials of Finance Ministry and the problems that had been created were discussed. It was stated that about 12000 to 13000 bales had been seized by Customs authorities mostly at Bombay, Ludhiana and Kanpur and a few at other places. The bales from Japan contained about 200 kgs. of garments and rags of hosiery and rags; whereas the contents of bales from Europe, Australia and America were 400 to 600 kgs. I explained that during my visit to Ludhiana on the 5th September I had a number of bales opened at random from the detained consignments. In some bales I had found that there were genuine rags as well as a high percentage of serviceable garments. It was difficult to give precisely the percentage as the bales had been hydraulically pressed and a proper examination of even a single bale would take about a day because each garment will have to be carefully opened up and all parts seen before it could be declared as serviceable. There were other bales in which the portions had been taken apart at the sewings but otherwise the garments appeared serviceable. There was yet another type in which an 7 to 10 inches long cut had been made with scissors, but barring this otherwise the garments were quite serviceable. There was also a category of garments and hosiery in which

there was no attempt at mutilation and the goods were serviceable as such.

"I also stated that from the enquiries made by me it appeared that barring three or four persons who could make and use shoddy yarn all the other importers had no use in their factories for the imported goods and thus they were clearly importing these goods in contravention of the conditions imposed by I.T.C. authorities, i.e., that the goods shall be used in the letter of authority holder's premises.

"It was also explained that in certain raids carried out by the Customs Department certain documents had been seized from the indentors from which it appeared that there had been under valuation also. Truck-loads of documents had been seized and it would be a few weeks before the scrutiny could be completed. *Prima facie* there had been cases of under valuation .

"Finance Secretary explained that *Prima facie* there had been various violations and appropriate action was called for by both the Ministries. The problem of disposal of the seized as well as uncleared goods would also have to be tackled. It was agreed that for this purpose the Ministry of Foreign Trade may find out the capacity of the shoddy users for the manufacture of blankets etc., and the matter could then be discussed further.

"The matter was discussed further on the 14th morning in Finance Secretary's room when OSD (Foreign Trade) and I were present. Finance Secretary re-capitulated that there were *prima facie* three distinct offences—

- (1) under-valuation for which appropriate penal action will have to be taken:
- (2) evasion of duty in cases where serviceable garments had been imported deliberately. These too would call for penal action;
- (3) violation of the condition in the import licences that the imported goods shall be used in the letter of authority holder's factory

The first two of the offences mentioned above would be under the purview of the Customs Department and they will take appropriate action. The third violation was for the Ministry of Foreign Trade to deal with.

"As regards the problem of disposal of the goods, it was estimated that in all it would be a question of finding appropriate disposal for about 25000 bales because apart from 12000/13000 bales already seized by the Customs, about 8000 to 9000 bales were lying in Bombay docks pending clearance and another 3000 bales or so were on the high-seas on their way to Bombay. The Officer on Special Duty (Foreign Trade) mentioned that according to their information the installed capacity on a three shift basis of the shoddy users was 11.7 million kgs. From this it appeared that it should be practicable to use the whole lot of 25000 bales or so for the manufacture of shoddy yarn to be ultimately converted into the manufacture of blankets etc. The O.S.D. (Foreign Trade) felt that there was enough demands from the Military authorities for these blankets. In these circumstances, it appeared appropriate that suitable arrangements will have to be made to ensure that these bales are sold to the shoddy users and are used in the manufacture of shoddy yarn. For this purpose, the importers will have to pay supervision charges to the Customs Department. Pending adjudication, the seized bales could be released if the sale proceeds are deposited with Customs.

"Officer on Special Duty, Foreign Trade, informed me today that Minister of Foreign Trade has since returned and that he will be acquainting him with the further developments in this case and take this orders."

12.19. On 5th October, 1972, Finance Minister's reply dated 17th September, 1972, to Minister of Foreign Trade's letter dated 20th July, 1972, was received in the Ministry of Foreign Trade stating.

"The officers of the Customs Department have carried out a number of raids at different stations and 12000 to 13000 bales which *prima facie* contained a high percentage of serviceable garments have been seized at Bombay, Ludhiana and Kanpur. A few bales have been seized at certain other places too. About 8000 to 9000 bales are pending clearance in Bombay docks and another 3000 bales or so are estimated to be on the high seas. The problem created by these importations and the appropriate action to be taken have been discussed between the officials of the Ministry of Foreign Trade and the Ministry of Finance. While the Customs Department would be taking appropriate action in regard to the question of undervaluation and evasion of duty, your Ministry has to take

necessary action regarding the violation of the condition of the import licence that the imported goods shall be used in the factory of the letter of authority holder. Please keep us informed of the action taken at your end."

12.20. On 13th October, 1972, a letter was received in the Ministry of Foreign Trade from the Chairman, Central Board of Excise & Customs giving information regarding the unauthorised imports of woollen garments. (Appendix VI) stating:

"As already stated in the minutes of discussions in Finance Secretary's room on the 8th and 14th September, 1972, *prima facie* three offences are involved:—

- (i) Under-valuation for which appropriate/penal action will have to be taken.
- (ii) Evasion of duty in cases where serviceable garments have been imported deliberately. These too would call for penal action.
- (iii) Violation of the condition in the import licences that the imported goods shall to be used in the Letter of Authority holder's factory.

12.21. The first two of the offences mentioned above would be under the purview of the Customs Department and they will take appropriate action. The third violation is for the Ministry of Foreign Trade to deal with. In this connection you would recall that the importers had stated that the indents had been approved by the STC before orders for the goods were placed abroad. Then again one of the conditions subject to which the Letter of Authority had been issued in the names of different importers stipulates that the goods imported shall be used only in the Letter of Authority holders factory. On the other hand, the importers have stated that their factories had no use for these goods and that this was known all along to the authorities. The importers have alleged that they had impliedly permitted to make good their losses on the export of hosiery by sale of imported goods. They have stated that they were not given any cash incentives and that the import of raw wool had ceased to be attractive; they were, therefore, to make good their losses by the sale of imported goods. It has also been represented that the totality of licences issued was far in excess of the genuine requirements of the industry. All these matters perhaps are already being looked into by your Ministry. On the Customs side

we are enquiring whether there were any instances of failure on the part of the Customs authorities in allowing clearances of serviceable garments either without mutilation or without a guarantee for subsequent mutilation or whether there was any other default or evidence of collusive practice."

12.22. In a letter dated 13th October, 1972, addressed to Collector of Customs, Bombay (Appendix VII), the Member (Customs) stated: "Representatives of some shoddy mills met Chairman this evening. They said that their consignments had been held up in Bombay docks and shortly some of them will be without raw-materials.

"The representatives stated that even in the past the consignments of rags imported by them sometimes contained a substantial percentage of serviceable garments and that is why a procedure for mutilation had been prescribed. They added that they had imported these consignments for use in their factories and these may be cleared, subject to mutilation if necessary. Since the shoddy Mills have genuine need for raw material, it appears to us that the practice that has been going on since 1961 under the Board's orders need not be changed in respect of imports against Actual users licences. Care will, of course, has to be taken that there is no deliberate importation of serviceable garments for sale. This will be evident if (i) the goods have been imported from a supplier/indenter against which incriminating evidence has been found in the documents seized, or (ii) if an examination of a few representative bales reveals a deliberate attempt, e.g., serviceable garments cut at the seams or having a small cut out of a few inches, a substantial percentage of garments made of synthetic fabrics or hosiery made of synthetic yarn, or an unusually high percentage of serviceable garments. A meticulous calculation of the percentage of serviceable garments appears impracticable, but officers who have been dealing with importation by Actual users prior to June 1971 would have a broad idea of the extent of serviceable garments and only where it is clearly much higher than the usual should be importation be considered deliberately.

12.23. On 23rd October, 1972, a note was received by the Ministry of Foreign Trade from the Prime Minister's Secretariat indicating that Prime Minister had minuted as under:—

"If the goods are not rags, they should not be treated as such or converted into rags."

12.24. On 30th October, 1972, O.S.D., Foreign Trade sent a letter (Appendix VIII) to Chairman, Central Board of Excise and Customs in which he stated as follows:

"The statement of the importers to the effect that their factories had no use for those goods and that this was known all along to the authorities is incorrect. What has been licensed to be imported is 'Raw wool/wool tops/waste wool/shoddy wool/woollen rags'. Hosiery units can and do use both wool and rags in their own factories after these have been converted into yarn. In case a unit gets the spinning done from an outside agency but uses the yarn in its own factory for the purposes of manufacturing knit-wear, it completely discharges the A.U. obligations. The ITC Hand Book of Rules & Procedure in terms has a provision to this effect. In fact, hosiery units, powerlooms units and processors do get imported A.U. raw material quotas directly although they have no spinning arrangement of their own.

"Your letter mentions yet another statement made by the importers to the effect that they had been impliedly permitted to make good their losses on the export of hosiery by the sale of imported goods. This statement is without any base whatsoever. The scheme for registered exporters for woollen textiles is duly notified on a year to year basis. Whatever assistance is available under this scheme is known to all concerned. Therefore, the question of any implied permission having been given for making good the assumed loss does not arise.

"It is also incorrect on the part of the exporters to say that the totality of licences issued was far in excess of the genuine requirements of the industry. The total imports that have taken place are within the capacity of the industry to use. Moreover, users have been allowed imports against their exports in accordance with the declared policy.

"Incidentally, I should mention that Abrol had informed the then Foreign Trade Secretary, the late Shri H. Lal, vide his demi-official letter Dy. No. 3294-M(cus)/72 dated the 15th July, 1972 that he had directed that the garments cleared by the Customs would be mutilated in the factories under Customs supervision. I should be grateful if

you could kindly inform us the number of bales cleared under this procedure. Needless to say that in view of Prime Minister's latest minute, this procedure too presently stands cancelled.

"Abrol in his demi-official letter No. 478/49/72-Cus.VII, dated the 18th October, 1972 to Kishore, has enclosed a copy of his demi-official letter No. 478/49/72-Cus.VII, dated the 13th October, 1972, to the Collector of Customs, Bombay which contains general guidelines as to how to deal with consignments of 'rags' imported against actual user licences by the shoddy mills. Abrol has sought our views in this regard. Needless to say the clearance of goods in accordance with the import licences is the responsibility of Customs and any procedure which ensures clearance of goods in conformity with the valid import licences should be in order. However, I would like to point out in this connection that the possibility of a garment being sold directly without undergoing industrial process is as much there in the case of A.U. imports by shoddy mills as in the case of imports against exports by others."

12.25. An inter-departmental meeting consisting of the officers of the Ministry of Foreign Trade and Finance was held in O.S.D., (Foreign Trade)'s room on 4th November, 1972, to consider the problems connected with the seizure of bales.

12.26. On 10-11-1972 draft note for submission to Prime Minister duly approved by Minister of Foreign Trade was sent to Member (C.B.E.C.) for getting the approval of Finance Minister before submission to Prime Minister.

12.27. On 13-11-1972 Minister of Foreign Trade recorded a minute indicating his preference for investigation by the C.B.I. which was the only agency adequately equipped to conduct investigation covering all aspect of the problem.

12.28. On 15-12-1972, a note was received from Prime Minister's Secretariat indicating that Prime Minister had approved the proposals made by the Cabinet Secretary. The proposals of the Cabinet Secretary related to the procedure to be followed for investigation of the offences by the CBI.

12.29. According to a note furnished by the Ministry of Finance, a reference was made by the Wool and Woollen Export Promotion Council in their letter dated 10-11-1972 addressed to the Prime Minister to the meaning of 'Rags' given in Webster's Dictionary and also in the Textile Terms and Definition published by the Textile Institute of Manchester and it was suggested that as per these meanings, "Rags" would include discarded garments. The Director, C.B.I. in his letter dated 14-11-72 addressed to O.S.D., Ministry of Foreign Trade had also referred to this meaning of the word "rags". In view of the issues raised by the Wool and Woollen Export Promotion Council, it was decided to consult the Ministry of Law whether any offence could be deemed to have been committed in these cases. Later, in two meetings taken by the Cabinet Secretary on 17th November, 1972 and attended by Finance Secretary, OSD, Ministry of Foreign Trade, Director, C.B.I., Chairman, Central Board of Excise and Customs and other senior officers, on the basis of the legal opinion and other circumstances, certain recommendations were formulated, which were later endorsed by the Ministers of Finance, Foreign Trade and Personnel and were also approved by the Prime Minister. The recommendations formulated in the two meetings held on 17-11-72 were received in a note dated 7-12-72 from the Cabinet Secretary and on the basis of this note instructions were issued by the Board in the letter D.O. No. 478/49/72-Cus.VII dated 23rd December, 1972 to the Collector of Customs, Bombay stating:

"As you know some actual users and exporters-cum-importers have taken or may take the plea that they had intended for the importation of rags to be used for the purpose of making shoddy yarn as provided in the import licence/letter of authority and if some discarded garments have arrived in their consignments it is because these have been sold as rags in the foreign countries. Another argument put forth is that the term "rags" includes discarded garments according to some literature. They have taken the further plea that a practice for mutilation of discarded garments had been in vogue for a number of years. We understood from you that along with such an order a warning was generally given. While the Government do not wish to fetter the discretion of the adjudication officers, Govt. have no doubt that adjudicating officers will duly consider such pleas and will keep in view the past practice while dealing with goods which are under clearance or

which have been seized from importers, their brokers or clearing agents. However, serious view would be necessary in deliberate cases. Generally, these cases would seem to be:—

- (1) Where wearable garments had been sold, seized from dealers or seized at places where there were no facilities for conversion into shoddy yarn.
 - (2) Where there is evidence of under valuation.
 - (3) Where synthetic garments except in small percentages, have been imported.
 - (4) Where there is evidence that garments had been cut at the seams to deliberately by-pass Customs.
- In addition to departmental adjudication by Customs, CBI will be taking action regarding offences referred to at (1), (2) and (3) above. CBI also will be investigating into the vigilance aspect e.g., in cases where wearable garments, in whole or cut at seams, were passed without mutilation or bond for mutilation in violation of departmental instructions."

CHAPTER XIII

LAW MINISTRY'S OPINION

13.1. According to the representative of the Ministry of Law, the final opinion of the Ministry was given sometime in January, 1973. He also informed in writing that the question whether discarded second-hand garments would constitute woollen rags for the purpose of the I.T.C. regulations, did not appear to have been referred for advice to his Ministry by the Ministry of Finance prior to 23rd November, 1972. The Committee understood that in a note recorded on 1st December, 1972, the Minister of Law and Justice was of the view that the Import Trade Control Schedule was specific and distinct and rags may not cover unsaleable second-hand clothes, and he wanted to see if the term 'rags' was interpreted by any court in India or outside. Asked whether this was ascertained, the representative of the Ministry of Law stated:

"That was done. But nothing really worth placing before the Minister came out as a result of that."

13.2. Asked whether under the Customs Act, if a garment, whether good or old, was bought as a garment unmutilated or serviceable, the duty would not be attracted irrespective of what was done after importation, the witness stated:

"Unless action had been taken under rules framed under Section 24 of the Cusotms Act, normally the duty would be on the goods as they were at the time they were imported."

13.3. The Chairman, Central Board of Excise and Customs admitted that no rules have been made in regard to rags. He added:

"But may I add a line? Not long ago we considered the desirability of prescribing the rules. But when this opinion came that discarded garments can be rags, then the question of making rules under Section 24 would not have been appropriate at all. Therefore, the question that was to be taken up—I.T.C. Schedule—was this. Is the Schedule itself to be changed as has already been stated by the Commerce Ministry? They are already changing

the Schedule and making the definition quite different. As soon as the definition gains currency, we shall have to make rules."

13.4. On 23rd November, 1972, the Ministry of Finance requested the Ministry of Law whether "the mere act of importation of discarded garments against licences for woollen rags would constitute offence fit for prosecution or for penal action in departmental adjudications."

13.5. The Ministry of Law gave the following opinion on 23rd January, 1973 as approved by the Minister of Law and Justice:

"It would be notice from this that while the term "rags new" includes only waste cloths left after garments have been cut out, the terms "rags old" means worn garments that have been discarded. Thus discarded clothing would probably come under the term "old rags."

This would certainly create difficulties in taking penal action against the importers. As already stated even if the term "rags" includes discarded clothing and the import is held to be authorised, action can be taken against the importers for re-selling them if the terms of the Import Control Licences prohibit such resale. But as already stated, it may be difficult to sustain action against the individuals for an unauthorised import. The only reason which can be advanced against the parties is that the Import Trade Control Order mentions second hand clothing separately. But this may not carry the matter further if the goods have in fact been bought and sold as "rags".

13.6. In a counter affidavit filed in the Bombay High Court in February 1973 in the case of writ petition filed by M s. Madhu Wool and Spinning Mills, Bombay, certain submission were made on behalf of the Union of India which were exactly contrary to the view canvassed above.

13.7. When this contradiction was pointed out and it was enquired whether the Law Ministry was consulted before finalising and filing affidavit, it was stated that it was prepared by the Collector of Customs in consultation with the Branch Secretariat of Ministry of Law Bombay.

13.8. When the Committee pointed out the affidavit was inconsistent with the advice of the Ministry of Law, the Joint Secretary, Ministry of Law stated during evidence:

"This affidavit in fact, is not only an averment of facts but also contains submissions on questions of law. Therefore, only one particular point of view was being urged, was being submitted for the consideration of the court namely, that the second hand garments did not constitute rags. This was in the nature of a submission to the court and as such would not constitute an untrue or an incorrect statement. This, I believe, would probably answer the first half of the question. The second question was probably, as to whether it was correct on the part of the Department to have made a submission to the court, although it had been advised that the stand taken by it might not be upheld by the court. I would respectfully submit that this was only an argument which was being put forward before the court, because the ultimate objective was being achieved namely, these garments being released only after they were mutilated. If such a submission had not been made, then it would have amounted to an admission of the claim of the other party, with the result that the Department probably would have had to release the entire stock. There was no question because of making a false statement in this case a counsel is permitted to make a submission on a question of law even though that submission is not necessarily in accordance with his view as to what the correct law is. That is for the judge to decide."

13.9. The Finance Secretary stated:

"When the affidavit was filed, it was not sent to us for getting our approval. The Collector of Customs at Bombay has the authority to file an affidavit in consultation with the representative of the Law Ministry at Bombay. Therefore, he filed this affidavit. But, what he did was this. He stated the facts. But, he made a submission also that in his view, the second hand garments would not amount to rags. Here, there is the question of administrative problems. If he had said that according to the Law Ministry's view, these rags included garments, then, we would have been required to release all the garments without mutilation and they would have gone into the black-market. Then, there is no question of going to the

Court. The whole thing would have gone against us. The practice which we have followed of mutilating these garments, so that they do not find an entry into the second hand dealer's market, would have been frustrated."

13.10. The Chairman of the Board stated:

"Not a single statement was made in the affidavit before the High Court which was false. I say this because that is the word which has been used. There are always two sides to a question. Even when the whole of the note of the Law Ministry was read yesterday, they wanted to explain that in such and such circumstances, rags would only can not things which would be something unfit for use. They also concluded that on the basis of the meaning in some dictionaries, discarded garments would also fall into that category. Finally, they said that if the matter goes to the court of law, we may not have much of a case because of these other dictionaries. Now, when a writ petition is filed and the country's economy required that, it ought to be mutilated. The rule was that we must always mutilate. The question was, 'should we defend it or not.' When this was in the court, the judge himself said, "mutilation may be done because it was done all along. It seems to be reasonable." He said, "these people do not pay demurrage and you allow the goods only on mutilation."

13.11. The Committee are doubtful about both the legality and propriety of swearing an affidavit containing statements solemnly confirmed to be true and then claiming them to be mere submissions of the nature made by a counsel in arguments.

CHAPTER XIV

DISPOSAL OF ACCUMULATED BALES

14.1. On 17-3-1973 a meeting was taken by the Commerce Secretary to discuss the accumulation of bales of woollen rags in Bombay docks. The decisions taken at the meeting are as follows:—

- (1) The bales would be allowed to move to the shoddy spinners' premises under Customs bond where sampling for test of synthetics would be done.
- (2) Central Board of Excise and Customs would obtain authoritative advice from the Ministry of Law as to what should constitute 'woollen rags'.
- (3) The accumulated bales of rags would move to the shoddy spinners not only in Bombay but other centres like Amritsar and Ludhiana.
- (4) The bales should be cleared from the docks before the onset of the monsoons. The importers will be asked to nominate the shoddy spinners, to whom their bales should be sent.
- (5) The bales would be kept under the lock and seal of Customs/Central Excise Officers and subjected to examination and sampling for test. Only thereafter will they be released for use as actual user raw material.
- (6) Textile Commissioner's staff will be posted with the Customs/Central Excise Officers at the shoddy spinners' premises. This would, however, be possible only after additional staff has been sanctioned.
- (7) Some bales of rags had already been shipped after the expiry of the date of L.Cs. It was agreed that these L.Cs. should be revalidated. The number of bales involved was small.
- (8) No fresh orders regarding the import of shoddy rags need be placed on account of the fact that 38,000 bales pending clearance and 14,000 seized bales would be suffi-

cient to serve the shoddy sector for nearly a year and a half.

14.2. On 23-3-1973 and 4th April, 1973, meetings were taken by Cabinet Secretary, to come to a decision regarding disposal of the huge accumulation of bales at Bombay. The main decision at the meeting held in Cabinet Secretary's room was that nearly 17,000 bales out of 38,000 bales lying at the Bombay docks should be cleared in the near future as they contained predominantly woollen discarded garments (It was agreed to consider a woollen garments provided the wool content was 50 per cent or more). Regarding other bales which contained predominantly synthetic garments the prescribed procedure of the Customs authorities were to take their own course.

14.3. On 16th April, 1973, Commerce Ministry issued instructions to S.T.C. saying that rags to be imported should henceforth be mutilated abroad before shipment; with a view to avoid any abuse in the import of rags importers were to ensure that the over-all percentage of wool content in a bale should not be less than 60 per cent and the shoddy sector was to be warned that if any irregularities are committed the concerned unit would be blacklisted and not allowed to import any raw material.

14.4. On 17-9-1973 Ministry issued Public notice defining old and new woollen rags as follows:—

- (a) 'New' : The waste woollen cloth not exceeding 24 squares inches (154.84 square cm.) in area, whether woven or knitted, which is left after a garment has been cut out. The term also includes piece ends and discarded pattern bunches of area not exceeding 154.84 square cm.
- (b) 'Old' : Old and discarded woollen garments which have been mutilated, otherwise than by ripping at the seems, and rendered unserviceable. This definition will also apply to the imports made on or after the date of this Public Notice against licences issued before the date of this Public Notice. This definition will not apply to shipments already made prior to the date of the issue of this Public Notice.

14.5. In a written reply, the Ministry of Finance stated that the following procedure has been followed for examination of goods at docks:

"Most of the imports of woollen rags were made through Bombay. The Collector of Customs, Bombay has stated

that from 26th May, 62 onwards consignments of woollen rags were subjected to inspection of the lot and superficial examination of 5 per cent of the bales with a view to find out whether the consignment was found to contain garments of composite type it was first ascertained by feel and by burning test whether the garments were made of wool. In case the garments were found to be of material other than wool, representative samples were sent for test.

From 4th July, 72 onwards, the Shed Staff was required to examine 10 per cent of the total number of bales after inspection of the lot and selection of the packages. In the case of suspected parties the percentage of examination was required to be 25 per cent. The Shed Staff was required to indicate the approximate percentage of serviceable garments in each of the bales examined, and also to indicate whether the consignments consisted of different parts of garments which could be ultimately stitched so as to form a complete serviceable garment. In case, the consignment was found to contain 5 per cent or less of serviceable garments, the shed staff was required to indicate the same and also to indicate if the consignment consisted of more than 5 per cent of serviceable garments. The Shed staff was also required to send representative samples for test in case the consignment was found on burning test or by feel that the garments were made of other than wool. In case the Shed staff was doubtful about the composition, representative samples were required to be drawn in duplicate for being sent for chemical test.

During the period 19th July, 1972 to 28th August, 1972, in order to expedite clearance of the consignments of woollen rags in respect of which there had been heavy delays and complaints from the Chairman Port Trust and Secretary, Foreign Trade, it was decided that 2 bales should be examined from small consignments, 4 bales from bigger consignments and maximum 6 bales from the biggest lots. Between the period 28th August, 1972 to 30th December, 1972, the Collector decided to step up the percentage of examination and ordered that 4 bales should be examined in respect of consignments of 100 bales and 8 bales in respect of consignments of consisting of 100 to 200 bales and 12 bales in respect of consignments of more than 200 bales.

Towards the end of December, 1972 about 32,000 bales were lying pending examination and clearance, and in order to expedite their clearance it was felt that percentage of bales to be examined could be reduced, provided selection of bales for re-examination was done intelligently by dividing the consignment into homogenous lot. From 30th December, 1972 instructions were issued by the Collector to the shed staff to select the packages after classifying the entire consignment into homogenous lots, on the basis of their sizes, manner of package, type of packing material used and marks and numbers on the bales. The shed staff was then required to select packages from each of the homogenous lot for examination. They were required to examine 5 per cent of the bales from each consignment. The bales were required to be examined jointly by the shed Appraiser and the Examiner. The Asstt. Collector in-charge Docks was also required to exercise close supervision to ensure that the Appraiser and Examiner conducted the examination properly. The Shed Staff was also required to indicate the percentage of serviceable garments indicating whether (1) it did not contain serviceable garments (2) or negligible quantity meaning the quantity was so small that it was not worthwhile taking notice of (3) to indicate whether it contained Substantial quantity-meaning where serviceable garments were present in considerable quantity but did not form major portion of the bale. (4) to indicate whether the serviceable garments were present in predominant quantity i.e. major portion of the contents of the bale consisted of serviceable garments. Representative samples were also required to be sent along with the examination report.

From 28th February, 1973 the procedure for selection of packages for examination was the same but selection of packages was required to be made jointly by the Shed Appraiser and Assistant Collector incharge Docks. The examination was also required to be done jointly by the Examiner and the Appraiser and the Assistant Collector, incharge of Docks was required to exercise close supervision to ensure that the Appraiser and Examiner conducted the examination properly. The shed staff was also required to report if the consignment, consisted of serviceable garments. If the consignments on examination were found to contain garments of non-wool material e.g. of synthetics, representative samples were required to be sent for test direct to the Customs laboratory where a doubt was felt about the wool contents. No samples were required to be sent for inspection by the scrutinising Appraiser. Only in case where the shed staff was unable to take a decision whether the garments could be considered as serviceable or unserviceable, representative samples were required to be forwarded for inspection by the scrutinising

appraiser. In the case of hosiery representative samples were necessarily required to be sent for test to the Custom Laboratory to ascertain the wool contents and the presence of synthetic or other material. Enhanced scale of examination was not required to be done unless the Assistant Collector incharge of the groups or the incharge of the Docks felt it necessary in a particular case.

The Collector of Customs, Bombay has added that inspite of the Departmental orders which were issued for examination of the consignments of woollen rags, it was subsequently found at the time of re-examination of the goods in the presence of the CBI officers, that the examinations carried out earlier were not done properly in some cases. It is therefore difficult to say the precise extent to which these instructions were followed by the shed staff."

14.6. In another note, the Collector of Customs, Bombay has stated, "The consignments of woollen rags, which on percentage examination were found to contain substantial (over 5 per cent to 50 per cent) or predominant (over 50 per cent) quantity of woollen serviceable garments or substantial percentage of synthetic garments were released subject to mutilation of serviceable garments under Customs/Excise Supervision. The consignments which on percentage examination were found to contain predominantly (over 50 per cent) synthetic garments, were however confiscated absolutely. Number of bales and value of consignments which have been released subject to mutilation of serviceable garments and those of which have been confiscated absolutely is given as 30,669 and 7,338 respectively during the period 1969 to 1973."

The Chairman, Central Board of Excise and Customs informed the Committee that where there was a question of undervaluation of synthetics, they were confiscated. Otherwise the order was for the mutilation.

14.7. A small percentage of the imports of woollen rags were cleared through Calcutta Custom House. As regards the procedure for examination of the goods at docks from time to time followed at Calcutta, the Collector has stated that prior to middle of 1972, the practice was to examine such consignments in the docks by strip opening the bales on percentage basis. In case of doubt and if a discrepancy was detected cent per cent examination was done. The Collector has added that from middle of 1972, the practice is to open cent per cent of the bales in each consignment and the examination

692 LS.—6.

report is required to mention whether the goods are mutilated and unserviceable rags or not.

14.8. The Collector of Customs, Madras has stated that except for the 9 consignments of woollen rags which were diverted to that port during dock strike in Calcutta in December, 1970 no other consignments of woollen rags were imported through that port during the period 1967 to 1972. The Collector has added that the procedure was to order the opening for inspection/examination of a maximum of 10 per cent of the consignments subject to minimum of 2 packages. There were no imports at any other port.

CHAPTER XV

PROCEDURE FOR MUTILATION OF SERVICEABLE GARMENTS IN DOCKS AND OTHER PLACES

15.1. In a note, the Ministry of Finance have stated the following procedure followed for mutilating serviceable garments in Docks and other places:

“Most of the imports of woollen rags were made through Bombay and the Collector of Customs, Bombay has stated that prior to 4th July, 1972, whenever mutilation of serviceable garments in a consignments of woollen rags was permitted in Bombay, it was required to be done directly under the supervision of an Appraiser (a Gazetted Officer). It was not laid down that the mutilation need be watched, supervised or verified by an Assistant Collector, though the Assistant Collectors, Docks or Assistant Collector outdoors may have made surprise checks as part of their general duties.”

“The Collector has added that after 4th July, 1972, whenever mutilation of serviceable garments were cut and mutilated by manual labour with the help of scissors, knives and other sharp instruments and the garments were unserviceable. The Collector has further pointed out that whenever consignments were to be mutilated outside the docks at the premises of shoddy spinners, mutilation was carried out in the same manner as in the docks under the supervision of an Appraiser (a Gazetted Officer).”

15.2 In the letter dated 1st February, 1973, the Collector of Customs, Bombay had pointed out delay and difficulty in mutilation of serviceable garments outside Bombay. The relevant extracts are reproduced below:

“Most of the goods where serviceable garments have been noticed, were being mutilated under the supervision of the Customs Officers in Bombay only and wherever requests were made for mutilation at a place outside

Bombay, the mutilation was carried out under the supervision of Central Excise authorities as and when the permission to mutilate the goods outside Bombay was granted by the Custom House. However, in November, 1971 a few consignments were sent for mutilation to up-country places, but the mutilation certificates from the Central Excise authorities were not produced by the importers for more than six months. Subsequently, when the imports of consignments of woollen rags were increased considerably, the Customs thought it advisable not to allow mutilation outside Bombay at the place of destination. However, according to the telephonic instructions given by the Member (Customs) to the Collector of Customs in the month of September, 1972, the Custom House started giving permission to the importers to have their goods mutilated at the place of destination.

There are large number of consignments of woollen rags, which have been imported during the past several months. It has been observed that most of the consignments consist of serviceable garments. Most of the consignments are imported by up-country importers. In case it is decided at the time of adjudication to release the consignment after mutilation, some importers have been requesting that they may be granted permission to remove these goods to their destination at various up-country places. There have been representations from various shoddy spinners in Bombay that mutilation of the serviceable garments may not be allowed at the places of destination as they are afraid that these consignment will not be mutilated and are likely to find place in the open market for being sold as serviceable garments. In his letter dated 16th February, 1973, the Collector of Central Excise, Chandigarh, has stated that his Collectorate is more than fully occupied with their normal duties and in case it is decided by the Bombay Custom House to release consignments after mutilation at various places of destination under his jurisdiction, it would be extremely difficult for him to undertake the extra load of work of mutilation under supervision of Central Excise Officers of his Collectorate. He has also expressed fear that the trade is likely to abuse this facility and therefore he has suggested that the mutilation at the place of destination may not be allowed and the same should be got done in Bombay only."

15.3. On 5th April, 1972, the Member (Customs) in a letter to the Collector of Customs, Bombay conveyed the following decision arrived at the inter-ministerial high level meeting:—

“It has also been decided that mutilation of consignments of woollen rags may be allowed to be done at the premises of any nominated shoddy spinner, whether in Bombay or outside Bombay, because firstly colour sorting is necessary before mutilation; secondly re-packing and subsequent transportation of re-packed packages is a very difficult proposition, and thirdly, this raw material is to feed not only the Bombay shoddy spinners but also those located at other centres.

The importer has, as per the conditions of the licence/letter of authority, got to get his goods processed by a shoddy spinner. The importer may, therefore, nominate the shoddy spinner and then the consignment may be sent by rail to the nominated shoddy spinner's premises. Until mutilation, the goods will continue to remain under Customs Control, and supervision. In particular, your officers will escort the bales to the railway station and keep them under their control until placed in the railway wagons. The Wagons should be secured with Customs lock and seal. The Railway Receipt will be in favour of the Assistant Collector of Customs and Central Excise at destination as the consignee and should be sent to him departmentally. Assistant Collector of Customs/Central Excise at destination should be telegraphically informed giving particulars of the consignment wagon Nos. etc. He will ensure that the bales are placed in the shoddy spinner's premises which should be properly secured with Customs lock and seal. The mutilation should be effected under the supervision of Customs/Central Excise Officer. Frequent checks will be done by gazetted officers to ensure that there is no substitution of goods and that mutilation has been carried out. Importers will have to pay the usual fees for the officers posted at Bombay and at destination to supervise various operations. The good will be released only after mutilation.”

15.4. In the letter dated 29th August, 1973, the Member (Customs) issued the following instructions to the Collector of Customs, Bombay, regarding mutilation of garments:

“Please refer to the discussions that we had when you were in Delhi and further discussions that we have had today.

This is to confirm the decision we had taken earlier that you will be fully justified in not permitting further releases subject to mutilation at the premises of spinners who have been slow at mutilation. Sankaran has been sending you statements of progress of mutilation at the premises of various spinners and wherever you find that mutilation has not been proceeding at the reasonable place, further release for mutilation at these premises should not be allowed as in fact had been the attitude since we met at Delhi.

There would also be no objection to mutilate the goods in the decks before clearance in case some practicable arrangements can be made for doing that with the help of machines or manually. Similarly the seized goods wherever ordered to be released subject to mutilation could be mutilated in any suitable premises that you might like to hire for that purpose in Bombay."

15.5. In a written reply the Finance Ministry stated "During the period 1st April, 1971 to 31st July, 1973, 1,16,592 bales of rags were imported through Bombay Port and 3,0306 bales through Calcutta Port.

In respect of consignments cleared between 1st April, 1971 to 31st August, 1973, where action was taken by Custom House, the position as it stood on 9th November, 1973 was follows:—

(a) N). of bales ordered to be mutilated in docks	1321
(b) N). of bales ordered to be mutilated in the city of import.	8581
(c) (i) N). of bales ordered to be mutilated outside the city of import prior to 1-4-73 (all in Sept. & Oct. 1971)	224
(ii) N). of bales ordered to be mutilated outside the city of import after 1-4-73	15,939
(d) N). of bales confiscated.	7,006

Out of the above, Number of bales mutilated .

(a) N). of bales mutilated in the docks.	1321
(b) N). of bales mutilated in the city of import.	8581
(c) (i) N). of bales mutilated outside the city of import prior to 1-4-73	224
(ii) N). of bales mutilated outside the city of import after 1-4-73	2592

Period for which the bales are lying unmutilated .

- (a) All bales ordered to be mutilated in thr docks have been mutilated.
- (b) All bales ordered to be mutilated in the city of import have been mutilated.

(c) (i) All bales ordered to be mutilated outside the city of import prior to 1-4-73 have been mutilated.

(ii) The number of bales lying un-mutilated outside the city of import is 13,347 and the periods for which these bales had been lying un-mutilated are as indicated below:—

No. of bales lying un-mutilated for 1 month	Nil
No. of bales lying un-mutilated for 2 months	524
No. of bales lying un-mutilated for 3 months	9328
No. of bales lying un-mutilated for 4 months	1491
No. of bales lying un-mutilated for 5 months	292
No. of bales lying un-mutilated for 6 months	1009
No. of bales lying un-mutilated for 7 months	703
Total	<u>13,347</u>

The above information is in respect of imported consignments of rags which were allowed clearance by the Custom Houses. The Customs authorities had seized a large number of bales of woollen rags which had earlier been allowed clearance. Cases relating to such seized bales are in various stages of adjudication and have not been included in the above figures.

15.6. In a subsequent note, the Ministry of Finance has stated that as on 28th February, 1974 7,923 bales had been mutilated outside the city of import.

CHAPTER XVI

INVESTIGATION BY C.B.I.

16.1. On 7th December, 1972, a reference was received by the C.B.I. from the Cabinet Secretary to investigate the case in the following terms:

1. The 20,000 or odd bales lying in Bombay docks in respect of which Customs processes of examination etc. have not been initiated and the bales that may arrive in future from one category. Having regard to the Law Ministry's opinion, the bales containing discarded garments may be allowed to be cleared subject to mutilation except in the following cases:—

Where there is documentary evidence of under-valuation or importation of synthetic garments, except in small percentages, the cases may be investigated by C.B.I.

- II. As regards the 14,400 or so bales that have been seized from the importers' premises or from their clearing agents or bankers, these may also be dealt with in the same manner as the bales lying in the docks, except that necessary evidence from vigilance angle against the concerned Customs officers will be kept in view. Since these bales had already been examined and passed by the Customs Officers, wherever C.B.I. find that such passing was in violation of departmental instructions not to pass wearable garments except after mutilation or on bond for mutilation, the vigilance angle would come in. C.B.I. will indicate the type, manner and procedure for recording of evidence to be kept.
- III. As regards the 2,400 or odd bales seized from dealers or at places such as Siliguri where evidently there are no facilities for conversion into shoddy yarn, these would require investigation by the CBI, as in these cases the importers have violated the condition of the licence/letters of authority that the imported goods shall be used for making shoddy yarn which would be used by the importer in his own factory. The importers are liable to prosecution for this violation.

IV. CBI investigations will also extend to other cases of importation of rags from April, 1971 where Customs clearance has already taken place and where there is material or information to suspect (i) violation and conditions of licence relating to conversion of rags into shoddy yarn and its utilisation in the importers factory or (ii) Commission of any other criminal offence.

V. The import of rags was canalised through State Trading Corporation. It has, therefore, to be investigated by CBI, whether any S.T.C. officers were guilty of malafides in the discharge of their duties in any way.

As regards the CBI enquiry, the witness stated during evidence:

“Certain bales which were supposed to have been examined by them were not examined at all. In certain bales which they did claim to have examined, only one or two, the rags have been pulled out of the bales and in the others, the bales have been kept intact. In other words, certificates were issued by the appraisers that according to the existing orders of the customs, they had examined and passed them as rags, but in fact, they had not examined them at all. It is more a case of negligence.”

He further added:

“With regard to nine others, on preliminary enquiries against the various officials, we had found certain *prima facie* evidence of perhaps corruption also. We have converted them into regular criminal cases. So, at the moment, we have nine preliminary enquiries and 21 regular cases under investigation, out of which one case, which you already read out, has been finalised and the others are under investigation.”

16.2. Giving the scope of CBI enquiry, the representative of the CBI *inter alia* stated:

“Then the next category is the importation of garments from April, 1971, where customs clearance had already taken place. CCIE and the Ministry of Commerce would first go into all the material available with them whether any violation of the import conditions, relating to conversion of rags into shoddy yarn or commission of any other criminal offence was available and then they would lodge complaints. For that also, consultations are going on. It is

a very difficult task. We have not been able to receive any complaint yet out of this category."

He added that the complaint was to be received from the CCIE.

16.3. The representative of the Ministry of Commerce informed the Committee that the CBI wrote on 8th December, 1972 to the Central Board of Excise & Customs with a copy to the CCIE and the Ministry of Commerce. He added:

"What has happened is that in August, 1973 when the last such review was made along with the CBI people, the noting was like this: . . . No complaints were received as was said by my colleague herefrom the CBI regarding this matter. The Deputy Director, CBI met the JCCIE on the 30th July to find out the progress made by the CBI in regard to this matter. It appears that so far little progress has been made—it is correct. It has now been decided by the JCCIE to devise a proforma for collecting data regarding the licences issued, clearance from the Customs and the STC."

16.4. Asked whether the CBI were aware of any fictitious or bogus firms inside or outside the country connected with the rags deal, the representative of the CBI stated:

"Some of these firms which brought these materials were perhaps not genuine firms, but otherwise."

He continued:

"So far, we are trying to establish to whom and how these materials were disposed of. In the process we notice some persons coming in between and buy them and selling them in the open market. One or two of them—may be more may be fictitious or non-existent firms. We are trying to find out who these people are, doing this particular business."

16.5. He added that the CBI had registered seven cases in this connection. The representative of the Ministry of Commerce stated in this connection:

"I would like to place before the Committee that so far as imports are concerned, going on the basis that there are two categories of importers, namely, the actual users and the exporters who are entitled to this on replenishment, the actual users' lists were finalised by the textile Commissioner. In other words, every licence application had the

sponsorship of the Textile Commissioner so far as the actual user category is concerned. And this was what was acted upon by the CCIE's office in issuing the release orders, etc.

In the case of replenishment licence holders, the procedure was that the export had to be approved; the documentations for export had to be made available before the licences were issued. Therefore, in both these cases, it would not be the case that the importer himself would be a non-existent person, if I may say so. There could be a chain or other malpractices thereafter, but the importers were known as a specific party and it is in this context that I said that so far as the Commerce Ministry is concerned, there is no information about any bogus party."

16.6. The Central Bureau of Investigation reported the following progress of investigation:

"Investigation conducted so far has revealed that in certain cases, customs officials have recorded false examination reports in respect of the imported bales as "having been examined thoroughly and containing bonafide rags" whereas actually these bales contained predominantly serviceable garments. It has also been noticed that some of the customs officers gave mutilation certificates where the bales actually contained serviceable garments. The possibility of the appraising staff of the customs being in collusion with the importers is not ruled out.

It has also been found in some cases that certain importers who had been given REP licences for importing rags, deliberately imported serviceable garments and sold them in violation of the conditions of the licences.

CBI has so far registered in all 22 regular criminal cases and Preliminary Enquiries. The investigation in 7 P.Es has been finalised and reports have been sent to the Ministry of Finance, recommending regular departmental action for major penalty against 7 G.Os of Bombay Customs. Out of 22 regular cases, in one case (RC 6/73-FS.II) a decision has been taken in the C.B.I. to prosecute one G.O. one N.G.O. of Bombay Customs and one representative of Customs House Agent. Sanction for the prosecution is being sought. In another case a complaint has been filed against a partner of the firm U/s5 of the Imports and Exports (Control) Act in Bombay Court for sale of bales and the firm has been recommended to CCI&E for blacklisting. Field investigations in respect of 4 cases (5 firms) have been completed and the investigation reports are under scrutiny. The remaining cases are under investigation.

In all 9 cases against 17 firms were registered on the basis of information to the effect that those firms obtained letters of authority/release orders for import of woollen rags, on the grounds that they would use the same in the manufacture of shoddy wool goods/articles, whereas allegedly they had no equipment for manufacturing the shoddy wool goods/articles. However, these firms were engaged in the manufacture of woollen hosiery. All the 77 firms were letter of authority holders on behalf of the STC.

CBI has registered one case on the written complaint of Bombay Customs on 16-1-73 to the effect that 9 importers had imported 15 consignments consisting of 1781 bales said to contain woollen rags, but which, on examination and test, were found to contain garments| rags made of synthetic fibres. We have not registered any case pertaining to import and sale of synthetic yarn as such.

During test checking of 198 bales by the Customs, it was found that out of the 15 consignments, 11 consignments contained less than 50 per cent synthetic garments and the remaining 4 consignments contained 90 per cent, 75 per cent and 80 per cent synthetic garments respectively."

16.7. In a note, the Ministry of Finance have stated:

"This Ministry has so far received investigation reports from the CBI in respect of 6 cases in September, 1975 and one case in October, 1973 recommending disciplinary action against 7 Appraisers involved. Of these seven Appraisers, two have retired from service and the remaining 5 have been placed under suspension *w.e.f.* 1st December, 1973. These investigation reports were sent to the Collector of Customs, Bombay who is the disciplinary authority in the case of Appraisers requesting him to send his comments to the Central Vigilance Commission directly under intimation to this Ministry. The investigation reports are still under examination with the Collector. Disciplinary proceedings will be drawn up against these seven Appraisers depending on the advice given by the Central Vigilance Commission".

16.8. Dealing with the steps taken to prevent abuses, the Finance Secretary stated:

"I have already said that the facility given to the shoddy manufacturers for manufacturing blankets and tweeds was grossly abused and it became a racket from January, 1972.

As soon as this was brought to the notice of Government, they in consultation with the Law Ministry took specific steps and even seized bales which had left the docks. About 18,000 bales were seized. They are under adjudication. There is a CBI inquiry on. We have also laid down a certain policy that has to be followed against the officers who have been held responsible or who will be held responsible. I can assure you that whoever is found guilty, whatever his status, whoever is found guilty by the CBI enquiry will be sternly dealt with. We have also reversed the import policy. The new policy is not to give licence to anyone except to the registered user, not importer who does not have use for it. We have also remedied the definition of rags so that even better garments which can be used by people will not find a way into these bales.

Practically all steps have been taken as soon as Government took cognisance of it. I do not hide the fact of the abuse to which I referred. We ourselves are disturbed about it and want to see that anybody involved in this should be brought to book."

CHAPTER XVII

ACTION TAKEN AGAINST THE PARTIES FOR VIOLATION OF THE CONDITIONS OF THE IMPORT LICENCES

17.1. The Committee have been informed by the Ministry of Commerce that the Government debars Indian exporters/importers if they infringe the conditions of import licence or import trade control regulations. The foreign exporter, if he infringes the terms of contract, can be proceeded against by the STC, which is the contracting party.

17.2. Copies of 51 adjudication orders relating to unauthorised importation of goods against licences for "Woollen rags" were forwarded to STC by the Collector of Customs Bombay under the cover of his letter dated 30th November, 1973 and received by STC on 4-12-1973. Customs have been asked to furnish names of suppliers and I/L details to enable STC to take action against defaulting suppliers.

17.3. 37 firms had violated the conditions of the import licences. The Customs have taken action against them in regard to the importation of goods which did not conform to the importation of goods which did not conform to the description given in the licence. The import Control authorities have taken action under the powers vested in them for violation of the conditions. The total number of consignments which have come to our notice, which did not conform to the description given in the licence is about 66. In 65 cases, show cause notices have been issued and in the remaining case, action is being taken.

17.4. As regards the firm recommended by CBI for black-listing, the Ministry of Commerce have stated: "a report was received from the CBI on the 20th Sept., 1973 that they have been able to establish that there have been violations of the conditions of the licence issued to a firm called M/s. prosecution was agreed to. Simultaneously, the licensing authorities were informed that departmental action may be taken on the basis of the CBI's report. This is in progress. After the receipt of CBI's report, no licence has been issued to this party for woollen rags. As regards licences for other items, unless the party is put on abeyance/suspen-

sion/debarment, according to the provisions of the Import Control Order, licences cannot be denied to them. Before a party is put on suspension/debarment, it is necessary to conform to the legal provisions, *viz.* issue of a show cause notice, giving a personal hearing etc. While no licence release order has been issued to the party for woollen rags, a statement is attached showing the particulars of licences/release orders issued to the party from 1-9-73 for import of items other than woollen rags. Another statement showing details of purchases made by S.T.C. on behalf of M/s..... Industries with effect from 1-4-73 is also enclosed."

CHAPTER XVII

ACTION TAKEN FOR VIOLATION OF FOREIGN EXCHANGE REGULATIONS

18.1. Asked whether the goods were deliberately undervalued to avoid detection of serviceable garments. the Chairman, Central Board of Excise and Customs replied during evidence:

"That particular question relates to the prices. The goods were canalised through STC. Nearly 18,000 bales were seized. Some goods had been very very deliberately undervalued."

18.2. The Committee understood that the standing order No. 150/72 dated 6th September, 1972, stated, *inter alia*, as follows:

"It has been brought to the notice of the Custom House that some unscrupulous persons are importing woollen garments under the guise of woollen rags and that the *modus operandi* adopted by these persons is reported to be that they buy woollen coats and sweaters in the foreign market at Rs. 20/- per piece and have them cut into pieces and import them under the guise of rags by under invoicing them at Rs. 2.25 to Rs. 2.50 per kg. The weight of each half coat is reported to be about 1 kg. These half coats after clearance through customs are stated to be sewn into as complete coat/sweater and are sold in the Indian market at about Rs. 25/- per coat/sweater. It is also understood that the difference between the actual value of the coat/sweater and the invoice value is smuggled out of India resulting in the loss of revenue and foreign exchange to the Government of India."

18.3. When the Committee referred to this, the Director of Revenue Intelligence stated:

"There were a limited number of indenting agents in the entire country through whom these goods were imported. Our information relating to two or three indenting agents is that we carried out raids and came across certain documents, diaries and invoices which indicated that there

was a lot of manipulation. There was a lot of manipulation in regard to payments, under invoicing, manner of invoicing, manner of remitting unauthorised foreign exchange, to make up for the difference between the actual value of the goods and the invoice value of the goods. These were all passed on at the Custom Houses concerned for necessary action."

18.4. The Committee desired to be furnished with a note on cases of under-invoicing of goods. In a note, the Cabinet Secretariat (Enforcement Directorate) have stated:

"The Directorate of Revenue Intelligence and the Customs Department had received information that some of the importers were importing serviceable second-hand woollen garments misdeclaring them to be woollen rags imported for manufacturing "shoddy". In September, 1972, they conducted an examination of the imported bales of woollen rags which were lying with various mills and wholesale markets in several towns of the country. They had also searched several premises including those of certain indenting agents who were representing some overseas suppliers. In some of those searches, the officers of the Enforcement Directorate, Foreign Exchange Regulations, were also associated. One shri, who was controlling some of the indenting concerns directly or indirectly, was also interrogated by the D.R.I. authorities.

2. During this period, one....., Secretary, Director of one M/s Liberty Wool Stock Co. Montreal, Canada, who used to supply the goods through the indenting agents, was also in India. He was also interrogated.

3. As voluminous documents had been seized during these searches, the investigation was centralised with the special investigation and intelligence branch of the Custom House, Bombay, who are scrutinising these documents and taking action under the Customs Act, 1962. Some aspects of the investigation were entrusted to the Central Bureau of Investigation who have taken over from the Customs Department documents with they are concerned.

4. As *prima facie* it appeared that there are certain contraventions of the Foreign Exchange Regulations also, the Bombay Zone of the Enforcement Directorate was directed to go through the seized documents and the evidence available with the Customs and to take appropriate action under the Foreign Exchange Regulation Act. The scrutiny of these documents has not yet been completed as these documtns are still required by the Customs and the CBI authorities.

5. On examination of part of the records with Bombay Custom House, it was observe that some of the parties had imported serviceable garments or goods other than woollen rags though the import licences were given for importing woollen rags only. Section 4(3) of the Foreign Exchange Regulation Act, 1947 stands as under:

“Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.”

6. As the foreign exchange was released for the purposes of importing woollen rags, but used for importing some other goods, Show Cause Notices have been issued to some of the parties for contravention of Section 4(3) of the Foreign Exchange Regulation Act, 1947.

The Import licence was issued in the name of State Trading Corporation of India Ltd., New Delhi, who in turn had issued letter of authority/release in the name of the parties, who ultimately cleared the goods through the Customs as importers. In some cases, the banks were also shown as joint importers, perhaps due to the hypothecation of the stocks to them for packing credit. The Show Cause Notices, therefore, in such cases have also been sent to the State Trading Corporation of India Ltd. as also the concerned banks.

7. A final report, however about the parties involved, *modus operandi*, names of importers, amount of foreign exchange involved, can be furnished only after the documents lying in the custody of the Central Bureau of Investigation and the Bombay Custom House are made available and scrutinised. This is likely to take some more time.

CHAPTER XIX

A CASE REPORTED BY REVENUE INTELLIGENCE CLOSED

19.1. The Committee were informed about a case in which consignment of rags was imported by a party of Ludhiana in 1968 as rags cleared through Calcutta Customs House was subsequently checked by the Directorate of Revenue Intelligence on receipt of information from the Railway authorities that these bales contain in wearing apparel and no rags as declared. The preliminary examination of 60 bales revealed the percentage of serviceable garments as 52.5 per cent. The official residence of the firm's indentors in Bombay was searched by the officers of the Bombay Custom House. The search yielded a duplicate set of documents such as invoices, few letters and telegrams etc., pertaining to the 5 consignments in question. The statements of the Manager of the indentors revealed that there was a calculated attempt on the part of the importers to get serviceable garments imported as rags by making nominal cuts on the same so that these could be repaired after import and sold as garments in India. The indentors' statements also revealed that there was an attempt to under-value the goods and fabricate certain correspondence to make it appear that the goods imported were rags and not garments. Their reports were forwarded to the Collector of Central Excise and Customs, New Delhi. On the basis of this report, show cause notice was issued to the party, but finally, the Collector after personal examination of the goods held them to be rags. He ordered for release of the goods subject to their mutilation. After some time, the Director General of Revenue Intelligence and Investigation brought the matter to the notice of the Central Board of Excise and Customs. The Board found that the goods were no longer available for examination and in the absence of a further examination it did not find it possible in law to revise the order of the Collector which was based on his personal inspection of the goods. The matter was accordingly not pursued further.

19.2. In a letter dated 6th April, 1974, addressed to the Chairman, Public Accounts Committee, the Finance Secretary has stated: "I feel that in the interest of maintaining the independence and objectivity of the administration in quasi-judicial sphere and to ensure that the decisions are taken objectively in good faith without fear of being subjected to any adverse criticism, P.A.C.

may not like to comment upon decisions of quasi-judicial authorities in individual cases. The Supreme Court has been repeatedly emphasising on the point that while discharging quasi-judicial functions, the administrative authorities should not be guided by any policy or other extraneous consideration and also should not be subject to the dictates of any authority howsoever high."

19.3. On this reference of the Finance Ministry requesting the Committee not to question refusal of a Member, Customs to reopen the case even after a specific recommendation was received from the Director of Revenue Intelligence, Audit observed as follows:

"There are two aspects to be considered in this regard. The first aspect is whether Member, Customs was exercising any appellate jurisdiction while disposing of the reference received from the Director of Revenue Intelligence. There is a Business Allocation Rules for the performance of various duties under the Customs Act and there is a separate Member for hearing appeals, who is different from Member, Customs. Secondly, to consider whether a particular order passed by a Collector is a fit one for being reviewed by the Board under the appropriate provisions of the Customs Act is an exercise of an executive function. The Director of Revenue Intelligence, who makes the report, is not a judicial authority in any sense of the term and he makes a report of investigation, suggesting that a particular order of a particular authority is fit enough to be taken up for review. This reference is addressed to Member, Customs and disposed of by the Member, Customs in his executive capacity. It is only when an actual review is taken and an order on review is passed, that a possible question may arise whether such an order on review is of a judicial nature.

"The second aspect flows from the last part of the preceding para, viz., what is the nature of an order passed on review or on an appeal by a departmental authority vested with powers of review or appeal under the provisions of a fiscal enactments? This question frequently occurs not only in the Customs Department, but also in regard to various other Tax Departments and therefore I thought it would be better if I brought to the notice of the Committee the exact legal position as I have been able to gather. The Privy Council had occasion to consider an exactly similar point in *Shell Co., Australia vs. Federal Commissioner of Taxation* (1931 A Appeal Cases 275). The contention raised in that case was that the Board of Revenue (corresponding to our Central Board of

Excise and Customs or of Direct Taxes), which heard appeals arising from the orders of the Commissioner, was a court. The Privy Council answered thus:

“The Board of Review appears to be in the nature of administrative machinery, to which a taxpayer can resort at his option in order to have his contention reconsidered. An administrative tribunal may act judicially, but still remains an administrative tribunal, as distinct from a court strictly so called. Mere externals do not make a direction to an administrative officer by a tribunal an exercise by a court of judicial power”.

“This case was quoted as authority in *Salestax Commissioner vs. Parson Tools and Plant* in AIR 1970 Allahabad 428 (FB).”

There are numerous decisions under the Land Revenue Acts that proceedings under those Acts are fiscale proceedings and not “proceedings before a court. (Ref: *Mohd. Subhan-Ullah vs. Secretary of State* 1904 ILR 26 Allahabad 382).

In the following judgements it has been held that an order passed by a Commissioner of Income-tax on a revision application by an assessee.....for revising an order passed by a lower authority on grounds exactly similar to grounds raised on appeal have been held to be orders of an administrative nature and not even quasi-judicial nature:

33 ITR 717

32 ITR 26

35 ITR 24

46 ITR 1023

40 ITR 200

50 ITR 87

“In *Ujjain Bar vs. State of U.P.* (1963 SCR 778) Justice Hidayatullah pointed out that a taxing department is an instrumentality of the State. “They are not part of the legislature, nor are they part of the judiciary. Their functions are assessment and collection of taxes and in the process of assessing taxes they are to follow the pattern of action that is considered. They are not thereby converted into court of civil judicature. Their action must, in ultimate analysis, be regarded as of an administrative nature.”

“Sometimes, a distinction is sought to be drawn between a judicial act and a quasi-judicial act and the argument advanced is that the orders of taxation authorities are quasi-judicial proceedings and, therefore, akin to judicial proceedings. I may point out that the very fact that it is described as quasi-judicial act shows that this is not a judicial act. However, there is ample authority to show that an act is called quasi-judicial in the sense that a duty is cast on the executive body or authority to follow norms of judicial procedure, such as rules of natural justice, while exercising its executive power. The two leading authorities on Administrative law, Shri Basu and Shri M. P. Jain, have explained the nature and limitations of a quasi-judicial authority. If any court's ruling on this is needed, I would refer you to see Nageswara Rao *vs.* Andhra Pradesh Road Transport Corporation in (AIR 1959 Supreme Court 308).

“I do not think I need multiply authorities to show that neither the Committee nor Audit is precluded from looking into the propriety or legality of any order passed by any authority within the Taxation Department in respect of any taxation matter, irrespective of the nature of the order passed.”

CHAPTER XX

CONCLUSIONS AND RECOMMENDATIONS

20.1. The Committee are extremely concerned that various acts of commissions and omissions, not all of which appear to be bona fide, resulted in an unprecedented importation of serviceable woollen garments in the guise of rags in contravention of Customs, Import Control and Foreign exchange regulations in recent years. They regret to record that no reliable figures of imports of so-called rags were given to them. The narration in Chapter II of the Report would show how various sets of figures were given to them one contradicting another. Ultimately they came across an altogether different but revealing set of figures in a secret note recorded on 18-11-1972 by the Chairman, Central Board of Excise & Customs. The extent of variation between the figures initially given to the Committee and those indicated in this note will be known from the fact that the value of imports during 1971-72, according to these were Rs. 190 lakhs and Rs. 491 lakhs respectively. The then Minister of Foreign Trade had himself stated in his letter of 20th July, 1972 that he understood that about Rs. 2 crores worth of undeclared made up garments imported in lieu of rags were pending clearance at various Ports especially at Bombay. The amount of Customs duty and penalty leviable would, according to his own reckoning, have been of the order of Rs. 4.40 crores. If this gives any indication of the magnitude of offence at a given point of time, the Committee can well imagine the extent of manipulations all these years.

20.2. Between 1957 and 1966 import of rags was allowed to shoddy spinning units under the category of actual users as well as to exporters of woollen goods under Export Promotion Scheme, which was withdrawn following devaluation in 1966. In August 1961, the Government announced through executive instructions its decision to extend the exemption so far given to woollen rags to unstripped woollens imported, subject to the condition that the goods before clearance from the docks were cut to small pieces so as to render them unfit for any use other than as rags. The instructions also contemplated the Central Board of Excise and Customs specifically allowing serviceable garments to be mutilated at a place near the destination.

20.3. This power was later on (1962) delegated to be exercised by the local customs authority. The Committee fail to understand the reason, the vision and the legality of these executive decisions initially given in favour of certain firms, three of which were connected with each other, the principal among which was also acting as supplier's agent in India. The Committee cannot escape the impression that these firms and their associates have been in league with certain officials incharge of Licencing, Importing and clearing of the so called rags and it is not insignificant that one of them had come out with a disclosure of a concealed income before the Income Tax Department, even this disclosure was found to be inescapable to the department.

20.4. It is this relaxation coupled with laxity in conducting the check at the dock and at the factory by the Customs Department that was so successfully exploited by the vested interest of make unlawful gains to the detriment of the economy and the country. It was also unfortunate that other Government Organisations such as the Foreign Trade Ministry and the State Trading Corporation who ought to have exercised greater vigilance did not do so.

20.5. The Ministry of Commerce seems to have become aware as early as 1965 that the concession was being abused by the importers of rags. The imports were canalised through the State Trading Corporation from November, 1967. During the period 1966—68 only actual users were allowed to import woollen rags as one of the items. The Registered Exporters were allowed from 1-4-1968 to import only 'raw wool'. This was, however, changed after a month (from 1-5-1968) to allow the choice to import any one of the item—raw wool, waste wool, shoddy wool and woollen rags. This liberalisation and the lack of proper control by STC especially over the imports by the Registered Exporters have encouraged the latter to bring in serviceable garments in collusion with the suppliers and Customs officials. However, from May 1972, imports of rags were allowed only against exports of blankets or by actual users. This did not affect imports against the licences already issued.

20.6. The Finance Secretary informed the Committee of the loopholes in the STC operations thus: "In the first place, the STC issued global tenders only in the case of actual users and for 50 per cent of the registered export licencers. A special condition was laid down that they should be mutilated before they are exported out of a country. But there was no pre-inspection. Not only that, goods were delivered by the State Trading Corporation to the

actual users and importers-cum-exporters on the high seas with the result that there was no inspection on their landing also. 50 per cent of the registered exporters were given letters of authority and they were free to book their own goods from suppliers of their own choice. The STC only checked up the prices; there was no condition for mutilation abroad. It was only in May 1973 that the STC made it obligatory that the certificate from approved inspection agencies overseas should be attached before the export. There were a lot of loopholes there."

20.7. The imports were subject to actual user condition. The check of fulfilment of this condition seems to have been nobody's job all these years. According to a letter written (October, 1972) by the Chairman, Central Board of Excise and Customs, the importers had stated that their factories had no use for these goods and this was known all along to the authorities. They had alleged that they had been impliedly permitted to make good their losses on the export of hosiery by sale of imported goods. They had also stated that they had not been given any cash incentive and that the import of raw wool had ceased to be attractive; they were, therefore, to make good their losses by sale of imported goods. It was also represented that the totality of the licence issued was far in excess of the general requirement. These statements were denied by the O.S.D., Ministry of Foreign Trade. The following position, however, emerges from the information placed before the Committee.

20.8. The capacity of the shoddy sector in terms of raw material on the basis of 2 shifts was 8.85 and 9.15 million kgs. during 1971-72 and 1972-73. As against this, the quantity of woollen rags, shoddy wool and wool-waste imported was 15.01 and 17.5 million kgs. For the reasons brought out earlier the Committee doubt the veracity of even these figures and believe that the imports must have been far higher. Assuming that all the mills worked for three shifts the capacity would be 11.7 million kgs. Thus the imports during 1971-72 and 1972-73 would appear to have been in fact far in excess of requirement of the industry. There seems to have been no check or review of the replenishment scheme under which imports of rags were allowed to those who did not need them for their use with the result that what was ostensibly meant as an 'incentive' was grossly abused to amass illegal wealth by importing second-hand garments and selling them as such. To what extent this was deliberately allowed is anybody's guess.

20.9. On 7th July, 1972 the Secretary, Foreign Trade wrote to the Member (Customs) enclosing a copy of a representation by the Woollen Export Promotion Council. It was suggested by the Secretary, Foreign Trade that the wearable apparel may be ripped and rendered unserviceable for utilisation as garments and thereafter consignments cleared. As there is no noting on the file, it is not clear why the Foreign Trade Secretary made this suggestion although the representation was not addressed to him. The Member, Customs on receipt of the letter instructed the Collector of Customs, Bombay to clear the goods on the condition that the clothes were rendered unserviceable in the factories under the customs supervision. It is not clear why these orders were issued, when neither the Woollen Export Promotion Council nor the Foreign Trade Secretary had asked specifically for this concession. On the contrary on 20th July, 1972, the then Minister of Foreign Trade wrote to the Finance Minister suggesting to him to instruct the Central Board of Revenue to ensure against any laxity on the part of the Customs staff in clearing serviceable garments without payment of duty. The Committee have brought out how these contrary instructions have helped the offenders to go scot-free.

20.10. Although on complaints about misuse of rags the STC took up the question of changing the import policy and amendment of the Red Book not to allow hosiery and textile exporters replenishment in the form of import of woollen rags in August, 1971, the import policy was amended only in May, 1972. In the meanwhile (23-2-1972) the STC had furnished to the Textile Commissioner a list of 73 exporters holding release orders and against whom STC had made purchases of woollen rags. This list contained only five authorised shoddy spinners and the rest were exporters (66 in Amritsar Region and 2 in Bombay Region). On verification of consumption of imported rags, misuse of licences by hosiery exporters had been noticed in a number of cases. The C.B.I. had also seized records in some cases. Further, as many as 30 units in Amritsar Region neither any responsible person nor any record was available for verification and one unit could not be located. The Committee cannot but take a serious view of the delay in taking action on the part of both the STC and the Textile Commissioner as also the reluctance of the Ministry of Commerce to plug the obvious loop-hole in the import policy.

20.11. The Committee have been informed that during the period 1-4-1971 to 30-7-1973, 1,16,592 bales of rags were imported through Bombay Port and 30,306 bales through Calcutta Port. Of these, 24,065 found to contain serviceable garments were ordered to be

muttled largely outside the city of import and 7,006 were confiscated. Subsequently, 14,400 or so bales were seized from the importers premises or from their dealing agents or bankers. 2,400 or odd bales were seized from sellers or at places such as Silliguri where evidently there were no facilities for conversion into shoddy yarn. The CBI investigation had revealed that some customs officials had recorded false examination reports. Some of the customs officers had given mutilation certificates where the bales actually contained serviceable garments. In some cases the importers who had been given REP licences for importing rags deliberately imported serviceable garments and sold them in violation of the conditions of the licences. The Committee also find that the imports in some cases were grossly and deliberately underinvoiced. They regret that the progress of investigation by the various authorities is very tardy and slow.

20.12. The Committee's findings recorded in this report would further indicate how those who committed gross offences against import trade control, foreign exchange regulation and the Customs' Act were let off lightly and as regards the officials there has not been any attempt to find out those really guilty in managing and permitting these operations. The CBI were asked to chase a few low ranked officials who in the Committee's view, are only sacrificial goats. The Committee would in particular refer to the disposal of a typical case reported by the Directorate of Revenue Intelligence dealt with in Chapter XIX.

20.13. The Committee find that legal opinion was sought for from the Ministry of Law by the Ministry of Finance only on 23-11-1972, although decisions taken in the inter-Ministerial meeting held in the Cabinet Secretary's room on 17-11-72 refer to a legal opinion. Nevertheless the Committee are not satisfied with the opinion of the Ministry of Law that second-hand clothing can also be regarded as rags despite the fact that there was a separate item for second-hand clothing in the I.T.C. Schedule. The Committee also note the contrary views sworn before the court.

20.14. Having regard to the facts narrated above which strongly raise suspicion of malafides and having regard to the discrepancies in figures of imports of rags, contradictions in regard to various other matters, an almost total inaction of the various authorities concerned despite their awareness of malpractices right from 1965 and the limited scope of the CBI enquiry, the Committee are constrained to observe that the malady is far more deep seated than

what meets the eye. Nothing short of a high level enquiry into the entire matter under the Commission of Enquiry Act by a Commission presided over by a Supreme Court Judge, preferably sitting, would bring to light the true magnitude of the loss to the exchequer by way of loss of customs duty and penalty, under invoicing of goods, misdescription of goods and the various malpractices indulged in by both the official and trade interests and those who are responsible for permitting these abuses. Accordingly the Committee recommend that such an Enquiry should be instituted forthwith.

NEW DELHI;
 April 28, 1975.

 Vaisakha 8, 1897 (S).

JYOTIRMOY BOSU,
 Chairman,
 Public Accounts Committee.

APPENDIX I

(vide para 12.1)

Copy of letter dated 7th July, 1972 from Shri R. K. Adya, Chairman, Wool and Woollen Export Promotion Council, Bombay to Shri K. Kishore.

SUBJECT:—Import of woollen rags against exports of woollens.

The import of woollen rags has been allowed against exports of woollens for a number of years. We are sorry to say that the consignments of woollen rags arrived at Bombay dock are not being cleared by the Customs in view of some instructions issued to them recently. The exporters are being told that they will have to pay nearly 220 per cent of the value of consignments by way of import duty and penalty for importing these rags in an unripped manner. All orders whether directly or, through STC are placed for imports of rags in a ripped condition and if the suppliers send them unripped or half ripped for saving themselves from an exorbitant labour charge, it should not recoil on the exporters at home.

2. We request that the imports be allowed to be cleared in accordance with the practice followed over the last many years. We may say that the instructions, if any, have been issued rather abruptly with the result that the entire export trade has been landed in a mess. Heavy demurrages are accruing on the consignments lying in the port and in case remedial action is not taken immediately, we are afraid, irreparable damage will be done to exports of woollens which we are trying to boost to a figure of over Rs. 50 crores in the next few years.

3. We may however say that wherever the customs feel that the imported rags need further ripping or mutilations, they may do so before clearing such consignments. It would, thus be clear that the imported rags when released will be an industrial raw material which will not incur duty or penalty.

In view of these facts, instructions may kindly be flashed to the Bombay Customs for kindly falling in line with this procedure. This advice will truly be an act of export promotion.

Thanking you.

APPENDIX II

(vide para 12.1)

No. SFT/72/119

GOVERNMENT OF INDIA
SECRETARY, FOREIGN TRADE
NEW DELHI.

7th July, 1972.

My dear Abrol,

I enclose a copy of representation addressed to me by the Wool & Woollen Export Promotion Council regarding the import of woollen rags against exports. The representation is self-explanatory.

2. I am told that about 14,000 bales, valued roughly at about Rs. 1.5 crores, are on the docks. Additional quantities are also in the pipeline. Customs clearance, in view of the recent instructions, is taking considerable time. This is also involving heavy demurrage on the importers. The imposition of a duty at the rate of 220 per cent on import of garments though justified, is punishing. If a midway solution is not found, I fear, many consignments may not be cleared at all.

3. I would clarify that these rags have been validly imported in re-shipment against exports already effected. It may be that some of the bales, instead of containing rags, include wearable apparel. It is not the policy of Government that wearable apparel should be imported in lieu of rags and in this context, clearance of wearable apparel by imposing a 220 per cent duty would be fully justified. This measure would, however, choke exports and a way has to be found so that, without any infringement of law, the consignments which have already arrived and which are in the pipeline are cleared without any loss of time. I suggest that wearable apparel which may have arrived, for which incidentally the importers cannot be held entirely responsible, may be ripped and rendered unserviceable for utilisation as garments. Thereafter, the consignment can be cleared.

4. I shall be grateful if action on the lines indicated above can be taken at your earliest convenience.

With kind regards,

Yours sincerely,
Sd/-
(H. LAL)

Shri M.G. Abrol
Member, C.B.E.&C.
Ministry of Finance,
New Delhi.

APPENDIX III

(vide para 12.4)

M. G. ABROL,
MEMBER (CUSTOMS)

D.O. Dy. No. 3294-M(Cus)|72
15th July, 1972.

Dear Shir Lal,

Please refer to your D. O. letter No. STF/72/119 dated the 7th July, 1972, delivered to me on the 10th immediately I got in touch with our Collector at Bombay. He explained that a majority of importers have not submitted their bills of entry for clearance of the consignments. Bills of entry had been submitted only for 4000 bales and these were being processed expeditiously. On the 11th July, I gave instructions to the Collector that ordinarily he may allow clearance of the goods on the condition that the "clothes" are rendered unserviceable in the factories under customs supervision. The expenses of this supervision will have to be borne by the importers.

2. Incidentally I may mention that extra scrutiny by customs staff started on a reference made by the Chief Controller of Imports and Exports to the Collector of Customs, Bombay on the 19th May.

With kind regards,

Yours sincerely,

(Sd.) M. G. ABROL

Shri H. Lal,
Secretary, Foreign Trade,
Ministry of Foreign Trade,
New Delhi.

Copy with a copy of the letter under reply forwarded to the Collector of Customs, Bombay.

Encl : As above.

(Sd.) M. G. ABROL.
Member (Cus.)

APPENDIX IV

(vide para 12.6)

MINISTER OF FOREIGN TRADE INDIA.

New Delhi the July 20, 1972.

My dear Chavan Sahib,

As you are aware, import of woollen rags is permissible to actual users and registered exporters. Of late there were reports that in lieu of shoddy rags, made-up woollen garments were being imported. For curbing these illegal imports you have rightly imposed duty-cum-penalty at the rate of 220 per cent of the value of imports of undeclared made-up garments in lieu of rags. I hope you have simultaneously instructed the Central Board of Revenue to suitably direct their Port Officers to ensure against any laxity on the part of Customs field staff in clearing serviceable garments without payment of required duty.

I understand that about Rs. 2 crores worth of undeclared made-up garments imported in lieu of rags are pending clearance at various ports, especially at Bombay.

With kind regards,

Yours sincerely,

(Sd.) L. N. MISHRA

Shri Y. B. Chavan,
Minister of Finance,
Government of India,
New Delhi.

APPENDIX V

(Vide para 12.10)

MINISTER OF FOREIGN TRADE INDIA

New Delhi, the 7th August, 1972.

My dear Chavan Sahib,

Today morning a procession of about 200 persons representing several Hosiery Association of Ludhiana met the Prime Minister. They protested against continuous clearance of ready-made woollen garments against licences issued for the import of rags.

2. Later in the evening the representatives of these Associations met me also and reiterated that the clearance of imported garments in lieu of rags should be stopped forthwith. They stressed that unless such action was immediately taken, their factories would get closed, as consumers would always refer imported garments to their products.

3. I have already written to you in this regard vide my letter No. S-1729|MFT|72 dated July 20, 1972 (copy enclosed) requesting for ensuring against any laxity on the part of Customs in clearing serviceable garments. I hope suitable action has been already taken by your Ministry in this direction.

With kind regards,

Yours sincerely,

(Sd.) L. N. MISHRA.

Shri Y. B. Chavan,
Finance Minister
New Delhi.

APPENDIX VI

(Vide para 12.20)

D.O. No. 478/49/72-Cus. VII

CHAIRMAN,

GOVERNMENT OF INDIA
CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 13th October, 1972.

My dear Satarawala,

Please refer to your letter D.O. 160-S-OSD(KTS)/72 dated the 30th September, 1972, regarding the unauthorised imports of woollen garments.

2. The information required by you is furnished below:—

(a) (i) As a result of the raids carried out all over India, number of bales seized at various places from traders is as follows:—

	Bales
1. Ludhiana	598
2. Amritsar	124
3. Srinagar	83
4. Faridabad	94
5. Delhi	69
6. Rampur	8
7. Dehradun	3
8. Kanpur	742
9. Ahmedabad	27
10. Calcutta	110
11. Siliguri	27
12. Darjeeling	51
Total	1936 bales

About 11,800 bales in Bombay and about 3000 bales in Ludhiana have been seizeddetained with exporters-cum-importers or their clearing agents or banks pending further examination. Further, about 5,300 bales have

been detained in Bombay, Amritsar, Faridabad and Ludhiana with actual users, but are being released ensuring mutilation.

(ii) About 12,900 bales are pending clearance in Bombay docks. Another 5,000 to 6,000 bales have just arrived from Australia.

(b) & (c) As already stated in the minutes of discussions in Finance Secretary's room on the 8th and 14th September, 1972, *prima facie* three offences are involved:—

- (i) Under-valuation for which appropriate/penal action will have to be taken.
- (ii) Evasion of duty in cases where serviceable garments have been imported deliberately. These too would call for penal action.
- (iii) Violation of the condition in the import licences that the imported goods shall be used in the Letter of Authority holder's factory.

The first two of the offences mentioned above would be under the purview of the Customs Department and they will take appropriate action. The third violation is for the Ministry of Foreign Trade to deal with. In this connection you would recall that the importers had stated that the indents had been approved by the STC before orders for the goods were placed abroad. Then again one of the conditions subject to which the Letter of Authority had been issued in the names of different importers stipulates that the goods imported shall be used only in the Letter of Authority holder's factory. On the other hand, the importers have stated that their factories had no use for these goods and that this was known all along to the authorities. The importers have alleged that they had been impliedly permitted to make good their losses on the export of hosiery by sale of imported goods. They have stated that they were not given any cash incentives and that the import of raw wool had ceased to be attractive; they were, therefore, to make good their losses by the sale of imported goods. It has also been represented that the totality of licences issued was for in excess of the genuine requirements of the industry. All these matters perhaps are already being looked into your Ministry. On the Customs side we are enquiring whether there were any instances of failure on the part of the Customs authorities in allowing clearances of serviceable garments either without mutilation or without a guarantee for subsequent mutilation or whether there was any other default or evidence of collusive practice.

(d) This matter is being considered in this Ministry and I am sure your Ministry, concerned as it is with the hosiery industry and export trade, is also considering it and may have thought of some solutions. The method and manner of disposal of these

goods, I suggest, should be settled at the earliest in an inter-Ministerial meeting after taking into consideration all the relevant factors.

(e) In serious offences the offending goods can be confiscated absolutely, but these matters as well as the extent of fine has to be adjudged by the adjudicating officers in quasi-judicial proceedings.

3. We should jointly go into all these and other connected matters as soon as possible. Please let us know as soon as you have formulated tentative lines of approach.

With kind regards,

Yours sincerely,

Sd./- JASJIT SINGH

Shri K. T. Satarawala,
Officer on Special Duty,
Ministry of Foreign Trade,
New Delhi.

APPENDIX VII

(Vide para 12.22)

A copy of secret D.O. letter No. F.No. 478/49/72-Cus. VII dated 13th October, 1972 from Shri M. G. Abrol, Joint Secretary, Central Board of Excise & Customs addressed to Ramchandran Collector of Customs, Bombay.

"Representatives of some Shoddy Mills met Chairman this evening. They said that their consignments had been held up in Bombay docks and shortly some of them will be without raw-materials.

2. The representatives stated that even in the past the consignments of rags imported by them sometimes contained a substantial percentage of serviceable garments and that is why a procedure for mutilation had been prescribed. They added that they had imported these consignments for use in their factories and these may be cleared, subject to mutilation if necessary. Since the Shoddy Mills have genuine need for raw material, it appears to us that the practice that has been going on since 1961 under the Board's orders need not be changed in respect of imports against Actual user licences. Care will, of course, have to be taken that there is no deliberate importation of serviceable garments for sale. This will be evident if (i) the goods have been imported from a supplier/indenter against which incriminating evidence has been found in the documents seized, or (ii) if an examination of a few representative bales reveals a deliberate attempt, e.g. serviceable garments cut at the seams or having a small cut of a few inches, a substantial percentage of garments made of synthetic fabrics of hosiery made of synthetic yarn, or an unusually high percentage of serviceable garments." A meticulous calculation of the percentage of serviceable garments appears impracticable, but officers who have been dealing with importations by Actual users prior to June, 1971 would have a broad idea of the extent of serviceable garments and only where it is clearly much higher than the usual, should the importation be considered deliberate.

3. As regards the first factors, Sankaran has already sent to you the names of indentors/suppliers against whom some incriminating

minatory evidence has been seized. Similar list should be available with you in respect of documents seized by your officers or seized by the D.R.I. and transferred to you. Incidentally, the list of indentors/suppliers against whom there is an incriminatory evidence may be sent to other Custom Houses also.

4. As regards the second factor, I presume there are instructions existing in the Custom House regarding the selection of representative samples. I need hardly stress that for this purpose the bales should first be classified into different homogeneous lots on the basis of their size, manner of packing, or make and Nos. Care should be taken to see whether the bales have any marks and Nos. which may not have been shown in the documents. Having classified the consignment into different homogenous lots each lot having similar dimensions, similar manner of packing and similar marks and Nos. at least one bale should be examined from each lot.

5. It also appears to us that no time need be wasted to find out whether the percentage of serviceable garments is so negligible as not to insist on mutilation of the consignment. In all cases of importations of garments, mutilation in the mills under Customs supervision must be insisted. Deliberate importation of serviceable garments will, of course, have to be adjudicated.

APPENDIX VIII

(Vide para 12.24)

K. T. SATARAWALA
OFFICER ON SPECIAL DUTY

GOVERNMENT OF INDIA
MINISTRY OF FOREIGN
TRADE

No. 10(9)/72 TEX.(E)/Vol. III/267. *New Delhi, the October 30,
1972*

Please refer to your secret demi-official letter No. 478/49/72-Cus.VII, dated the 13th October, 1972, about the unauthorised imports of woollen garments. I have noted the information furnished by you including the number of bales pending clearance.

2. The statement of the importers to the effect that their factories had no use for these goods and that this was known all along to the authorities is incorrect. What has been licensed to be imported is 'Raw wool/wool tops/Waste wool/shoddy wool/woollen rags'. Hosiery units can and do use both wool and rags in their own factories after these have been converted into yarn. In case a unit gets the spinning done from an outside agency but uses the yarn in its own factory for the purposes of manufacturing knitwear, it completely discharges the A.U. obligations. The ITC Hand Book of Rules & Procedure in terms has a provision to this effect. In fact, hosiery units, powerlooms units and processors do get imported A.U. raw material quotas directly although they have no spinning arrangement of their own.

3. Your letter mentions yet another statement made by the importers to the effect that they had been impliedly permitted to make good their losses on the export of hosiery by the sale of imported goods. This statement is without any base whatsoever. The scheme for registered exporters for woollen textiles is duly notified on a year to year basis. Whatever assistance is available under this scheme is known to all concerned. Therefore, the question of any implied permission having been given for making good the assumed loss does not arise.

4. It is also incorrect on the part of the exporters to say that the totality of licences issued was far in excess of the genuine requirements of the industry. The total imports that have taken

place are within the capacity of the industry to use. Moreover, users have been allowed imports against their exports in accordance with the declared policy.

5. Incidentally, I should mention that Abrol had informed the then Foreign Trade Secretary, the late Shri H. Lal, *vide* his demi-official letter Dy. No. 3204-M(Cus)/72 dated the 15th July, 1972 that he had directed that the garments cleared by the Customs would be mutilated in the factories under Customs supervision. I should be grateful if you could kindly inform us the number of bales cleared under this procedure. Needless to say that in view of Prime Minister's latest minute, this procedure too presently stands cancelled.

6. Abrol in his demi-official letter No. 478/49/72-Cus. VII, dated the 18th October, 1972 to Kishore, has enclosed a copy of his demi-official letter No. 478/49/72-Cus. VII, dated the 13th October, 1972, to the Collector of Customs, Bombay which contains general guidelines as to how to deal with consignments of 'rags' imported against actual user licences by the shoddy mills. Abrol has sought our views in this regard. Needless to say the clearance of goods in accordance with the import licences is the responsibility of Customs and any procedure which ensures clearance of goods in conformity with the valid import licences should be in order. However, I would like to point out in this connection that the possibility of a garment being sold directly without undergoing industrial process is as much there in the case of A.U. imports by shoddy mills as in the case of imports against exports by others.

7. I trust that keeping in view the above, you will be in a position to decide these cases early. When we briefly spoke about this on the morning of Thursday, 26th October it was agreed between us that we would meet to consider the consequential action dependent on your decisions. Could our meeting take place on Wednesday, the 1st November or Thursday, the 2nd November, at 4.30 P.M. or any other date and time mutually convenient?

Sd/- K. T. SATARAWALA.

Sri Jasjit Singh,
Chairman, Central Board of Excise & Customs,
(Ministry of Finance)
North Block, New Delhi—1.

APPENDIX IX

Summary of main Conclusions/Recommendations

Sl. No.	Para No. of Report	Ministry/Department Concerned	Conclusions/Recommendations
1	2	3	4
I.	20. I	Finance/Commerce	The Committee are extremely concerned that various acts of commissions and omissions, not all of which appear to be bona fide, resulted in an unprecedented importation of serviceable woollen garments in the guise of rags in contravention of Customs, Import Control and foreign exchange regulations in recent years. They regret to record that no reliable figures of imports of so-called rags were given to them. The narration in Chapter II of the Report would show how various sets of figures were given to them one contradicting another. Ultimately they came across an altogether different but revealing set of figures in a secret note recorded on 18-11-1972 by the Chairman, Central Board of Excise and Customs. The extent of variation between the figures initially given to the Committee and those indicated in this note will be known from the

fact that the value of imports during 1971-72, according to these were Rs. 190 lakhs and Rs. 491 lakhs respectively. The then Minister of Foreign Trade had himself stated in his letter of 20th July, 1972 that he understood that about Rs. 2 crores worth of undeclared made up garments imported in lieu of rags were pending clearance at various Ports especially at Bombay. The amount of Customs duty and penalty leviable would, according to his own reckoning, have been of the order of Rs. 4.40 crores. If this gives any indication of the magnitude of offence at a given point of time, the Committee can well imagine the extent of manipulations all these years.

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Finance

Between 1957 and 1966 import of rags was allowed to shoddy spinning units under the category of actual users as well as to exporters of woollen goods under Export Promotion Scheme, which was withdrawn following devaluation in 1966. In August 1961, the Government announced through executive instructions its decision to extend the exemption so far given to woollen rags to unstripped woollens imported, subject to the condition that the goods before clearance from the docks were cut to small pieces so as to render them unfit for any use other than as rags. The instructions also contemplated Central Board of Excise and Customs specifically allowing serviceable garments to be mutilated at a place near the destination.

3. 20'3 Finance This power was later on (1962) delegated to be exercised by the local customs authority. The Committee fail to understand the reason, the wisdom and the legality of these executive decisions initially given in favour of certain firms, three of which were connected with each other, the principal among which was also acting as supplier's agent in India. The Committee cannot escape the impression that these firms and their associates have been in league with Certain officials incharge of Licensing, Importing and clearing of the so called rags and it is not insignificant that one of them had come out with a disclosure of a concealed income before the Income Tax Department, even this disclosure was found to be inescapable to the department.
4. 20'4 Finance/Commerce It is this relaxation coupled with laxity in conducting the check at the dock and at the factory by the Customs Department that was so successfully exploited by the vested interests to make unlawful gains to the detriment of the economy and the country. It was also unfortunate that other Government organisations such as Foreign Trade Ministry and the State Trading Corporation who ought to have exercised greater vigilance did not do so.
5. 20'5 Commerce The Ministry of Commerce seems to have become aware as early as 1965 that the concession was being abused by the importers of rags. The imports were canalised through the State Trading Corporation from November, 1967. During the period 1966-68 only
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actual users were allowed to import woollen rags as one of the items. The Registered Exporters were allowed from 1-4-1968 to import only 'raw Wool'. This was, however, changed after a month (from 1-5-1968) to allow them the choice to import any one of the item raw wool, waste wool, shoddy wool and woollen rags. This liberalisation and the lack of proper control by STC especially over the imports by the Registered Exporters have encouraged the latter to bring in serviceable garments in collusion with the suppliers and Customs officials. However, from May, 1972, imports of rags were allowed only against exports of blankets or by actual users. This did not affect imports against the licences already issued.

6.

20*6

Commerce

The Finance Secretary informed the Committee of the loopholes in the STC operations thus: "In the first place, the STC issued global tenders only in the case of actual users and for 50 per cent of the registered exporters licences. A special condition was laid down that they should be mutilated before they are exported out of a country. But there was no pre-inspection. Not only that. Goods were delivered by the State Trading Corporation to the actual users and importers-cum-exporters on high seas with the result that there was inspection on their landing also. 50 per cent of the registered exporters were given letters of authority and they were free to book their own goods from suppliers of their own choice. The STC only checked up the prices; there was no condition for mutilation abroad. It was only in May 1973 that the STC made it obligatory that the

certificate from approved inspection agencies overseas should be attached before the export. There were a lot of loopholes there."

7. 20.7 Finance
Commerce

The imports were subject to actual user condition. The check of fulfilment of this condition seems to have been nobody's job all these years. According to a letter written (October, 1972) by the chairman, Central Board of Excise and Customs, the importers had stated that their factories had no use for these goods and this was known all along to the authorities. They had alleged that they had been impliedly permitted to make good their losses on the export of hosiery by sale of imported goods. They had also stated that they had not been given any cash incentive and that the import of raw wool had ceased to be attractive; they were, therefore, to make good their losses by sale of imported goods. It was also represented that the totality of the licence issued was far in excess of the general requirement. These statements were denied by the O.S.D., Ministry of Foreign Trade. The following position, however, emerges from the information placed before the Committee.

8. 20.8 Commerce

The capacity of the shoddy sector in terms of raw material on the basis of 2 shifts was 8.85 and 9.15 million kgs. during 1971-72 and 1972-73. As against this, the quantity of woollen rags, shoddy wool and wool-waste imported was 15.01 and 17.5 million kgs. For the reasons brought out earlier the Committee doubt the veracity of even these figures and believe that the imports must have been far higher. Assuming that all the mills worked for three shifts the capacity would be 11.7 million kgs. Thus the imports during 1971-72 and

1972-73 would appear to have been in fact far in excess of requirement of the industry. There seems to have been no check or review of the replenishment scheme under which imports of rags were allowed to those who did not need them for their use with the result that what was ostensibly meant as an 'incentive' was grossly abused to amass illegal wealth by importing second-hand garments and selling them as such. To what extent this was deliberately allowed is anybody's guess.

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20.9

Commerce

On 7th July, 1972 the Secretary, Foreign Trade wrote to the Member (Customs) enclosing a copy of a representation by the Woollen Export Promotion Council. It was suggested by the Secretary, Foreign Trade that the wearable apparel may be ripped and rendered unserviceable for utilisation as garments and thereafter consignments cleared. As there is no noting on the file, it is not clear why the Foreign Trade Secretary made this suggestion although the representation was not addressed to him. The Member, Customs on receipt of the letter instructed the Collector of Customs, Bombay to clear the goods on the condition that the clothes were rendered unserviceable in the factories under the customs supervision. It is not clear why these orders were issued, when neither the Woollen Export Promotion Council nor the Foreign Trade Secretary had asked specifically for this concession. On the contrary on 20th July, 1972, the then Minister of Foreign Trade wrote to the Finance Minister suggesting to him to instruct the Central Board of Revenue to ensure

against any laxity on the part of the Customs staff in clearing serviceable garments without payment of duty. The Committee have brought out how these contrary instructions have helped the offenders to go scot-free.

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Although on complaints about misuse of rags the STC took up the question of changing the import policy and amendment of the Red Book not to allow hosiery and textile exporters replenishment in the form of import of woollen rags in August, 1971, the import policy was amended only in May 1972. In the meanwhile (23-2-1972) the STC had furnished to the Textile Commissioner a list of 73 exporters holding release orders and against whom STC had made purchases of woollen rags. This list contained only five authorised shoddy spinners and the rest were exporters (66 in Amritsar Region and 2 in Bombay Region). On verification of consumption of imported rags, misuse of licences by hosiery exporters had been noticed in a number of cases. The C.B.I. had also seized records in some cases. Further, in as many as 30 units in Amritsar Region neither any responsible person nor any record was available for verification and one unit could not be located. The Committee cannot but take a serious view of the delay in taking action on the part of both the STC and the Textile Commissioner as also the reluctance of the Ministry of Commerce to plug the obvious loophole in the import policy.

121

11.

20.11

Finance
Cabinet Sectt.

The Committee have been informed that during the period 1-4-1971 to 30-7-1973, 1,16,592 bales of rags were imported through

Bombay Port and 30,306 bales through Calcutta Port. Of these, 24,065 found to contain serviceable garments were ordered to be mutilated largely outside the city of import and 7,006 were confiscated. Subsequently, 14,400 or so bales were seized from the importers premises or from their dealing agents or bankers. 2,400 or odd bales were seized from sellers or at places such as Siliguri where evidently there were no facilities for conversion into shoddy yarn. The CBI investigation had revealed that some customs officials had recorded false examination reports. Some of the customs officers had given mutilation certificates where the bales actually contained serviceable garments. In some cases the importers who had been given REP licences for importing rags deliberately imported serviceable garments and sold them in violation of the conditions of the licences. The Committee also find that the imports in some cases were grossly and deliberately under-invoiced. They regret that the progress of investigation by the various authorities is very tardy and slow.

132

12.

20-12

Finance
Cabinet Sectt.

The Committee's findings recorded in this report would further indicate how those who committed gross offences against import trade control, foreign exchange regulation and the Customs' Act were let off lightly and as regards the officials there has not been any attempt to find out those really guilty in managing and permitting these operations. The CBI were asked to chase a few low-

ranked officials who in the Committee's view, 'are only sacrificial goats. The Committee would in particular refer to the disposal of a typical case reported by the Directorate of Revenue Intelligence dealt with in Chapter XIX.

13. 20-13 Law

The Committee find that legal opinion was sought for from the Ministry of Law by the Ministry of Finance only on 23-11-1972, although decisions taken in the inter-Ministerial meeting held in the Cabinet Secretary's room on 17-11-1972 refer to a legal opinion. Nevertheless the Committee are not satisfied with the opinion of the Ministry of Law that secondhand clothing can also be regarded as rags despite the fact that there was a separate item for second-hand clothing in the I.T.C. Schedule. The Committee also note the contrary views sworn before the court.

14. 20-14 Finance

Having regard to the facts narrated above which strongly raise suspicion of *malafides* and having regard to the discrepancies in figures of imports of rags, contradictions in regard to various other matters, an almost total inaction of the various authorities concerned despite their awareness of malpractices right from 1965 and the limited scope of the CBI enquiry, the Committee are constrained to observe that the malady is far more deep-seated than what meets the eye. Nothing short of a high level enquiry into the entire matter under the Commission of Enquiry Act by a Commission presided over by a Supreme Court Judge, preferably sitting, would bring to light the true magnitude of the loss to the exchequer by way of

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loss of customs duty and penalty, under-invoicing of goods, misdescription of goods and the various malpractices indulged in by both the official and trade interests and those who are responsible for permitting these abuses. Accordingly the Committee recommend that such an Enquiry should be instituted forthwith.

104

