

P. A. C. No. 517

**PUBLIC ACCOUNTS COMMITTEE
(1975-76)**

(FIFTH LOK SABHA)

TWO HUNDRED & TWENTIETH REPORT

DELAYS IN FURNISHING ACTION TAKEN NOTES



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1976/Vaisakha, 1898(S)

Price: Rs. 1.00

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*Note printed (one cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library.

PUBLIC ACCOUNTS COMMITTEE

(1975-76)

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22. Shri Rabi Ray.

SECRETARIAT

Shri H. G. Paranjpe—*Chief Financial Committee Officer*

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

*Ceased to be Members of the Committee consequent on retirement from Rajya Sabha *w.e.f.* 2-4-1976.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Two Hundred and Eighteenth Report on Illegal Import of Gold—Paragraph 11 of the Report of the Comptroller and Auditor General of India for 1973-74, Union Government (Civil) Revenue Receipts, Volume I—Indirect Taxes.

2. The Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I—Indirect Taxes was laid on the Table of the House on the 9th May, 1975. The Public Accounts Committee examined paragraph 11 of the Audit Report relating to illegal import of gold at their sittings held on the 22nd August, 1975 (FN and AN) and 22nd September, 1975 (FN and AN). The report was considered and finalised by the Committee at their sitting held on 22nd April, 1976 (FN). Minutes of the sittings form Part II* of the Report.

3. For facility of reference, the conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. For the sake of convenience, the recommendations observations of the Committee have also been reproduced in a consolidated form in Appendix IV to the Report.

4. The Committee placed on record their appreciation of the assistance rendered to them in the examination of the Audit paragraph by the Comptroller and Auditor General of India.

5. The Committee would also like to express thanks to the officers of the Ministry of Finance (Departments of Revenue and Insurance and Economic Affairs), for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
April 23, 1976|
Vaisakha 3, 1898 (S).

H. N. MUKERJEE.
Chairman,
Public Accounts Committee.

*Not printed (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

CHAPTER I

AUTHORITIES DEALING WITH GOLD

Audit Paragraph

1.1. Illegal import of gold and action taken thereon.

(i) Under Chapter IV A of the Customs Act, transactions in certain goods notified under that Chapter, have to be reported to Government and any violation of the provisions of that Chapter would invite penal provisions of the Act. The notified goods include gold.

1.2. An illegal import of gold would attract not only the penal provisions of the Customs Act, but also those of the Foreign Exchange Regulation Act and the Gold Control Act. Thus, apart from the extensive powers for search and seizure, adjudication, confiscation of goods and for levy of penalties under the Customs Act, the Customs authorities have powers to prosecute the offenders contravening the Customs and other associate Acts in a Court. With a view to preventing smuggling, the provisions relating to punishment and conviction in a court of law have been tightened so as to enhance the maximum imprisonment from five to seven years, the minimum punishment being six months.

1.3. During the period from January, 1970 to June, 1974, there were 134 cases of seizures of contraband gold, involving a total value of Rs. 14,74,70,361, excluding the value of 247 bars of gold of 10 tolas each seized in March and October, 1973, which is not known. (These seizures also involved other smuggled goods like wrist watches, watch straps, yarn and fabrics, glass chettons, silver, saffron and Indian/foreign currency of a total value of Rs. 77,00,662).

From out of these 134 cases, 81 cases have been adjudicated. Of the rest, in 19 cases adjudication proceedings are still pending and in 34 cases details of adjudication are not yet known. The year-

wise break up of these 19 and 34 cases is given below:—

Period	Adjudication pending	Adjudication details not known
January, 1970 to March, 1971	1	2
April, 1970 to March, 1971	—	3
April, 1971 to March, 1972	2	2
April, 1972 to March, 1973	8	8
April, 1973 to March, 1974	6	10
April, 1974 to June, 1974	2	9
	19	34

1.4. Penalties were levied in 54 cases ranging from Rs. 200 to Rs. 1,000 in 6 cases, Rs. 1,000 to Rs. 10,000 in 25 cases, Rs. 10,000 to Rs. 50,000 in 19 cases and Rs. 50,000 to Rs. 1,00,000 in 4 cases.

1.5. Prosecutions were launched in 47 cases. Of these, two resulted in acquittal/discharge, 30 resulted in conviction and 15 were pending. The punishments inflicted in cases of conviction were simple imprisonment of one day in 3 cases, rigorous imprisonment from 3 months to 6 months in 22 cases, rigorous imprisonment from 9 months to 18 months in 5 cases and fines ranging from Rs. 500 to Rs. 1,000 in 6 cases, Rs. 1,000 to Rs. 10,000 in 19 cases and Rs. 10,000 to Rs. 70,000 in 5 cases.

[Paragraph 11 of the Report of Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I--Indirect Taxes].

A. Coordination between various authorities dealing with checks on possession of gold

1.6. The Committee desired to know about the agencies which were entrusted with the task of checking the possession and import of gold. The Member (Customs) stated:

“We have three agencies. One is the customs organisation. They deal primarily with offences under the Customs Act.

Then there is the Gold Control Administration. Gold Control is mainly done by the Collectors of Central Excise and the Collectors of Customs, who are also authorised to deal with this particular matter in certain areas. Then there is the Director of Enforcement who deals with offences under the Foreign Exchange Regulation Act. The first two come under the Ministry of Finance, Department of Revenue and Insurance, while the third comes under the Department of Personnel in the Department of Cabinet Affairs. Officers of central excise are also authorised to function as officers under the Gold Control Act. When there is reason to believe that there is some offending gold anywhere, the officer may make a search, if warranted, and he would make a case under both the Acts. But if he thinks that the offence is only under the Gold Control Act, he would make a case only under that Act."

1.7. The Committee enquired about the nature of coordination maintained between the different agencies. The Member (Customs) stated:

"Normally there would be coordination even by mutual consultation. But in order that it may be put on a regular basis, we have formed zonal enforcement coordination committees where we get together the Director of Enforcement, the Commissioner of Income-tax, the Collectors of Customs and Central Excise and the Director of Revenue and Intelligence. All sit together and discuss matters of interest so that nobody is likely to escape."

1.8. The Finance Secretary added:

"Income-tax Department has set up a Special Wing, particularly, to go into the cases of smugglers who have been detained under the Preventive Detention Act and also those cases which have otherwise also come to the notice of the Department and they are very actively pursuing these cases both under the Income-tax law as also the wealth-tax law but the mills of the Income-tax Department, I am afraid, grind slowly but surely and I think we will be getting the results."

Link between gold seized in Income-tax Raids and smuggled gold

1.9. The Committee asked whether any link could be established between the gold seized in the Income-tax raids and smuggled gold. The Finance Secretary stated:

"I would submit that the two issues are somewhat distinct. So far as the gold that is seized in an Income-tax raid is concerned, it may or may not be smuggled gold. In many cases it may be that they have got jewellery and other types of wealth. In such cases, it will be necessary for them to establish whether the tax has been paid either in the form of wealth-tax or income-tax and whether this particular gold cannot be accounted for by the income they have disclosed. Then it becomes purely a case of concealment of income and is pursued under the Income-tax Law as such. Besides this, it may be that during the course of the seizures and searches, some primary gold is found or that gold in excess of what has been declared is found or ornaments have been found, then it would become an offence under the Gold Control Act and necessary proceedings would be pursued under that Act."

1.10. The Member (Customs) stated:

"If gold has foreign marking, then *prima facie* we could ask straightway that this must have been smuggled gold, except in very rare circumstances that the gold might have come in legally many years ago before import of gold was banned."

Asked if there were any cases of raids by Income-tax officers where link was suspected with smuggling, the Chairman of the Board stated:

"The intensified income-tax raids have started recently."

The witness added:

"If an offence under Gold Control Act is established, the normal practice of the Income-tax authorities is to refer such cases to the Gold Control Administrator for further action. Under the Wealth-tax Act, the whole of it may not be liable to confiscation. But under the Gold Control Act, the whole of it is liable to confiscation. They do pass on the cases to the Customs authorities for further action."

1.11. The Gold Control Administrator stated:

"There is admittedly a finding of the Wanchoo Committee that there is a lot of black money. When a person is keeping black money, he does not necessarily keep it in the shape of smuggled gold. He keeps black money in whatever convenient form he can. There is a very very huge quantity of gold which has been in India from times immemorial and the quantity of smuggled gold is not necessarily in preponderate proportion of the total quantity of gold in the country. Therefore, the black money which is found by the Income-tax authorities in these in the shape of either gold or ornaments may be smuggled gold or may not be smuggled gold."

1.12. The witness added:

"The moment the Customs authorities or Gold Control authorities come to know of a big case, the Income-tax authorities are kept in touch, and the moment the income-tax authorities make a big seizure of gold, they immediately get in touch with the Gold Control authorities and the Customs authorities."

1.13. The Chairman of the Board stated:

"A mention was made about the link between the gold which might be seized in the towns and smuggling. The Gold Control Act was introduced with this idea. The entire gold cannot be seized on the frontiers. There is a very vast sea-coast. There are so many airports. There are various other channels through which contraband gold comes into the country which on landing gets melted and loses its identity. Then there is so much of gold inside the country which makes it difficult to distinguish between the Indian and smuggled gold. Therefore, the Gold Control Act was brought into force as a sort of regulating the internal transactions and private possessions of gold. So, whereas we may be able to take action under the Gold Control Act it will not be an easy task to say whether it was smuggled gold or internal gold in the case of jewellery or ornaments although certainly it attracts the provisions of the Gold Control Act."

1.14. The Committee desired to be furnished with a note indicating *inter-alia* the machinery that exists for coordination and the

concrete results achieved by correlating the gold detected during Gold Control and Customs raids for Wealth Tax purposes and in determining the source of gold declared by various assessee to the Wealth Tax authorities. In their reply, the Ministry of Finance stated:

“For ensuring proper coordination of the activities of various intelligence, investigation and enforcement agencies handling economic offences, coordination committees are functioning at the Headquarters, Zonal and local levels. Coordination at appropriate levels is ensured in regard to the following:

- (a) In the day to day working of the Enforcement Agencies coordination in regard to exchange of information etc. as warranted by the merits and circumstances of each case.
- (b) Results of searches by one Enforcement agency are required to be communicated to the other Agencies without loss of time in regard to matters requiring follow up action by the other agencies.
- (c) List of smugglers apprehended under the Customs Act and now the Foreign Exchange Regulation Act are required to be promptly transmitted to the direct taxes authorities.
- (d) Information regarding persons detained earlier under the Maintenance of Internal Security Act and under the Conservation of Foreign Exchange and Preventions of Smuggling Activities Act are required to be furnished to the Income-tax authorities without any loss of time.
- (e) Each enforcement and investigation agency getting information from another agency is required after necessary follow up action at its end, to give a feed back to material which may be of interest to the other agencies.

The Committee also discuss *inter-alia* important specific cases involving problems of coordination and watch their progress.

Issues requiring coordination on all India level are discussed in the Headquarters Coordination Committee and suitable instructions are issued to the Head of the Department of all concerned agencies.

Statistics of concrete results achieved by correlation of gold detected during the raids conducted by the Gold Control and Customs authorities for Wealth Tax purposes or in determining the source of gold declared by assesseees to the Wealth Tax Authorities are not available. It may, however, be added that wherever the information available with one enforcement authority is likely to be useful to another enforcement authority the officers act in close coordination with each other."

B. Working of the Special Cell set up by the Income Tax Department to deal with Smugglers

1.15. The Committee was informed during evidence that the Income-tax Department had set up a cell especially to deal with smugglers' cases. The Committee desired to be furnished with a note in this regard indicating the results achieved so far and also the nature of coordination maintained by this cell with the Customs Department. In their reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

"The Special Cell under the Directorate of Inspection (Investigation) set up for the purpose in September, 1974 initially consisted of a Deputy Director and supporting staff under the Director. Subsequently in May, 1975, the Unit was placed under the charge of a Director posted for the purpose assisted by two Deputy Directors, Assistant Directors and supporting staff.

This Unit was expected to maintain close liaison with the other Enforcement agencies of the Government; supervise and coordinate the activities of field formations; give guidance to them wherever necessary for effective investigation and removal of bottle-necks. The Unit was also expected to collect and disseminate information pertaining to the assets owned by the smugglers/foreign exchange racketeers and their benamis to the field formations.

This Unit has so far furnished information in respect of 1590 COFEPOSA detenus to the field formations, prepared comprehensive dossiers in respect of 50 top smugglers, updating them from time to time; identified the properties of these 50 top smugglers and their suspected benamis relatives besides collecting information in respect of 70

others; furnished the salient features of the recent Ordinance pertaining to the forfeiture of property to the field formations and have been continuously assisting the field formations in their endeavours to make effective investigations in all important cases. 130 assessments were completed up to 31st March, 1975 with major additions totalling to about Rs. 3.5 crores in about 60 cases. During this period 116 penalty proceedings were finalised resulting in imposition of penalty amounting to Rs. 16.71 lakhs. During the period 1st April, 1975 to 31st October, 1975, 30 proceedings have been finalised with Rs. 16.2 lakhs imposed as penalty.

The field units were assisted, wherever necessary, in carrying out search and seizures operations in about 300 premises during the period 20th September, 1974 to 15th September, 1975, resulting in seizures mentioned below:

	Assets seized	Assets retained
	Rs.	Rs.
Cash	10,02,980	8,54,544
Jewellery (including other valuables)	27,30,063	22,27,669

Guidance has also been given in a detailed property survey in Kasargod area in Kerala State an important centre; survey of vessels registered along the Gujarat coast-line; collection and collation of the links of Gujarat smugglers with overseas parties through the material available from the records of the Telephone department and detection of various properties, luxury cars, etc. owned by detenus and other connected persons.

The Special Unit have been associating themselves with the other enforcement agencies like Central Bureau of Investigation, Directorate of Revenue Intelligence, Enforcement Directorate, Customs and Excise Departments etc. in the Coordination Committee meetings at the Centre and regional levels. Day-to-day coordination is maintained for the exchange of information, including details pertaining to searches carried out by the respective departments. The

names and other particulars of persons initially detained under MISA and subsequently under COFEPOSA, the grounds of their detention etc. have all been collected for the compilation of dossiers, the particulars from which have also been found useful by the other enforcement agencies. Thus there has been close liaison with other enforcement agencies in the matter of collection and dissemination of information including 'feed back'. Coordination has also proved useful particularly in some of the search operations carried out by the Customs and the Income-tax Departments recently in Gujarat. Combined teams from Income-tax Department, Customs, Excise, Enforcement Directorate and Police have been formed at some places for interrogating the detenus."

1.16. The Committee note that different agencies are engaged in dealing with the offences relating to the possession of gold. Government have taken steps to effect coordination between different agencies in the form of a Coordination Committees at Headquarters as well as zonal and local levels, and through exchange of information between different enforcement organisations. However, no statistics of the concrete results achieved as a result of such coordination could be produced. There has thus been so far no correlation of the gold detected during raids conducted by the Gold Controller and Customs Authorities with the gold declared for wealth-tax purposes or in determining the source of gold declared by assesseees to the wealth tax authority. The Committee also could not get an idea as to how far there was linkage of the gold seized in raids by the Gold Control and Income Tax Authorities with smuggled gold. The Committee feel that it would be useful to undertake a review of the working of the various enforcement and intelligence agencies engaged in offences relating to the possession of gold so that the position could be more concretely evaluated and all further necessary measures taken.

CHAPTER II

GOLD SMUGGLING AND ILLEGAL REMITTANCES OF FOREIGN EXCHANGE

A. Factors contributing to smuggling of Gold

2.1. The Committee desired to know about the factors that contributed to gold smuggling. The Gold Control Administrator stated:

“Like any other commodity smuggling of gold is also generated by the difference in the prices prevailing abroad and the prices prevailing in India. Of course, the factors which lead to the prices abroad being different from the prices in India are very many.

By and large, the position is that from the beginning of the Second World War, i.e. somewhere in 1930 there has been a control over the import of gold and except under the permit issued by the Reserve Bank of India, nobody could import gold. And to the best of my recollection, barring certain imports by the Government of India itself for the monetary reserves, there has been no import of gold for purposes of trade or for purposes of making use of it, because of this restriction on the import of gold in a legal manner; but obviously the prices in India have had no relation with the prices abroad because if we allow imports, then of course, after adding the import duty, the prices in the country would be more or less on that level. When we restrict the import of gold, then the prices of gold in the country would depend upon demand and supply of gold in the country and abroad. By and large, so far as the supply factors abroad is concerned, it has not varied considerably over the years though there have been small changes. But, so far as demand is concerned, apart from the use of gold in industry and medicine to some extent, there has been a very good demand for gold internationally and in the judgement of the persons who have made a study of gold prices abroad, i.e. internationally reputed firms in London which is still the most important centre of gold trade these factors are: (1) the fluctuations in currencies, particularly inflation on account of which a large number of people tend to keep gold with them as an edge against inflation and (2) the demand for gold comes in because of the speculative activities. These two factors contribute very considerably to the sharp fluctua-

tions in the demand for gold and, therefore, the prices keep on fluctuating very wildly sometimes. In addition, of course, during the very recent past, since 1971 December to be exact, there has been considerable thinking in the International Monetary Fund circles about the future of gold and this itself has contributed very considerably to the prices of gold going up or coming down. Alongside that, there is the factor of certain countries taking some policy decisions which change the structure of gold-handling in that country. Last year the United States Government allowed its citizens to acquire gold and this decision was announced somewhere in the middle of 1974. I am not sure—probably it was in July. But since this decision was taken, there was a gradual increase in the prices of gold. The result was that the price of gold internationally went up to as high as \$198 an ounce which is 31.1 grammes at the end of the year. Now it so happened that the expected demand from the American citizens did not come through. Therefore, there was a crash. But since speculators had purchased the gold at very high prices, speculators did not let the prices go down considerably. Then, the American Government, in order that the gold prices should not remain as high as they were, came out with a proposal to sell 2 million ounces of gold. They called for tenders for that but actually it so happened that even though tenders were floated globally, the total demand was very little. When the tenders were floated, the price was \$180 and they could not sell even a portion of the 2 million ounces at as low a price as \$ 160. The result of this has been that for months now the prices have tended to remain nearabout \$ 160 an ounce.

A few days ago there was an announcement with regard to the decision by the member countries of IMF that IMF should be allowed to sell 25 million ounces of gold. Now this has been another big factor and prices have started almost crashing from about \$160 an ounce. The prices had reached about \$147 in a few days and I just read a report saying that on Thursday's and Friday's dealings the prices have gone down to as low as \$136 an ounce. This is broadly the pattern of prices abroad.

Our demand for gold is very considerably insulated from the factors which influence the prices abroad. Prices in India

do tend gradually and to a very minor extent, to follow the pattern abroad. I will give you one example. International prices crashed from 161 dollars to 136 dollars. But recently the prices in India have fallen only from 543 rupees per ten grammes to 539 rupees per ten grammes."

2.2. Asked whether there was outflow of gold from India, the witness stated:

"In the Second World War, there was some outflow of gold. But I may say that in the recent past there was no outflow of gold."

2.3. Asked if the rise in the international price of gold had impact on reduction in the smuggling gold, the Gold Control Administrator stated:

"Yes, Sir. It does. At a later stage, the smuggling of gold which was considerable in extent was almost stopped,— firstly because of the seizures that were made and secondly because of intelligence reports that we get."

The witness added:

"As far as gold was concerned, in the year 1974 it was almost at stand still. Even in 1973 it was very little."

Asked about the price differential between the international price and the Indian price, the witness stated:

"In India the price of gold would be about 20 per cent higher. For over a considerable period of time, when the international price of gold was 160 dollars (in India, it worked out to Rs. 440 roughly for ten grammes), the price here was roughly around Rs. 535 or 540 per ten grammes. It works out to about 20 per cent higher."

2.4. At the instance of the Committee, the Ministry of Finance (Department of Revenue and Insurance) furnished a statement showing the prices of gold at Bombay and London during the last five years. The Statement is given in Appendix I.

2.5. The Gold Control Administrator clarifying the position further stated:

"I would like to clarify one point in regard to an earlier answer that I had given. This price differential would not be correct. Over and above, whatever the margin that a smug-

gler gets, for getting dollars illegally, he has to pay what is called the *havala* rate which is much more than the official rate. At one time it was as high as 12 whereas the official rate was 7.50. This will certainly give the price differential prevailing abroad and the internal price here. So, this price differential may not be indicative of the real margin which a smuggler gets."

2.6. Asked what action has been taken to prevent *havala* transactions, the Gold Control Administrator stated:

"That man gets the dollar or sterling from outside. Then his conspirator delivers the *havala* equivalent of those dollars to his family here in India. Physically there is no transfer at all; there is nothing in writing; there is no transfer of rupees or of dollars. The entire transaction is only by word of mouth and on trust. But, it is very difficult to get these people prosecuted in a court of law. But, now, under the COFEPOSA, since we have the intelligence reports, action has been taken against a number of them."

2.7. The Committee desired to know action if any, had been taken by Indian Embassies abroad to check the *havala* transactions. The Gold Control Administrator stated:

"In most of the places outside India it is quite legal for them to purchase dollars or to purchase rupees. All these things are of course illegal here."

2.8. The Chairman of the Board stated:

"Now they have taken note of these things. We have now an officer in the High Commission, itself deputed from the Custom side who feeds our Director of Revenue Intelligence with the required intelligence reports in that regard."

2.9. Explaining the action taken against the operators in India, the Chairman of the Board stated:

"I can assure you that to the extent we can rely on any evi-

dence at all we have gone fully ahead. Now, we have made full use of preventive detention measures and a number of operators have been detained. Therefore, if you see the trend of remittance of savings of Indians from abroad the legal traffic is very much on the increase as compared to couple of years ago. The figure of remittances from Indian abroad through authorised channels has gone up."

2.10. Asked if the administration was not slack earlier, the Chairman of the Board stated:

"It would not be; if I may say so, a right thing to say that the administration was slack in any way. As we pointed out earlier, until and unless you have a weapon like preventive detention you have to rely on evidence. Unless that evidence is available you cannot, in spite of all your information reports make such headway. Therefore, even though we had information about main operators we could not do much. It will not be fair to say we were slack anywhere."

When the Committee asked whether bigger elements were not concerned with smuggling, the Chairman of the Board stated:

"Absolutely. Very big elements are concerned. These petty people together have added to the problem."

B. Improvement in Remittances of Foreign Exchange

2.11. The Committee desired to be furnished with a note indicating the quantum of remittances made by Indians abroad through authorised channels during the last 10 years, and the measures taken or proposed to be taken to prevent remittances through unauthorised channels so as to preserve our scarce foreign exchange resources. According to a written reply, furnished by the Ministry of Finance (Department of Revenue and Insurance) data about all remittances exclusively allocable to Indians resident abroad are not collected by the Reserve Bank of India. Data collected by them regarding inward remittances and through authorised channels comprise of inward remittances for family maintenance, migrants' transfers of Indian nationals, savings of Indian Nationals abroad and reimburse-

ment of money order drawings. The amount so received during the 10 years from 1963-64 was as follows:—

Year	Total (Rs. Crores)
1963-64	34.2
1964-65	28.6
1965-66*	22.3*
1966-67*	21.6
1967-68	28.3
1968-69	41.1
1969-70	37.0
1970-71	32.9
1971-72	36.5
1972-73	43.5

*Exclusive of Rs. 45.2 crores in 1965-66 and Rs. 22.2 crores in 1966-67 received under National Defence Remittance.

It takes more than 2 years for the Reserve Bank of India to collect the basic information from all authorised dealers and to compile the figures, and therefore, figures for subsequent years are not available. From the estimates made by the Reserve Bank of India it is observed that there has been an increase of nearly 75 per cent in the remittances from abroad during January/October 1975 as compared to the corresponding period of 1974.

The various measures taken by the Government to prevent remittances through unauthorised channels and to redeflect inward remittances to authorised channels are briefly listed below:—

I. Legislative Measures:

- (a) The Foreign Exchange Regulation Act 1947 was amended (effective from 1st April 1965) to incorporate a specific provision I Section 5(1)(aa) which made it an offence for anyone in India to receive any amount for or on behalf of anyone outside India through other than authorised channels.
- (b) The new Act (Foreign Exchange Regulations Act 1973) includes a specific provision-Section 9(3)—to curb receipt

of money from outside India otherwise through authorised dealers. This is intended to prevent what are commonly known as "compensatory transactions."

- (c) Provision has also been made in this Act to prevent under-invoicing of exports. Under the new Act persons violating foreign exchange regulations also are liable to more stringent penalties. The maximum penalty that can be imposed for offences has been raised to five times as against three times of the amount for value involved in the contravention of the Act. The maximum imprisonment on prosecution before the Court has been enhanced to three years as against two years under the earlier Act. Further the maximum imprisonment could be up to seven years in case the amount involved is more than Rs. 1 lakh or the person has been convicted earlier.

The Reserve Bank is also stated to have allowed special facilities to attract inward Remittances through authorised channels and to prevent remittances through unauthorised channels. Details of these facilities are given in Appendix II.

C. Legislative measures taken to prevent smuggling

2.12. The Committee desired to know the background of introduction of Chapter IV A in the Customs Act, 1962 which made it obligatory on persons who possessed or acquired notified goods to furnish suitable declarations. In a written reply, the Ministry of Finance (Department of Revenue & Insurance) stated:

"Because of large scale smuggling of various consumer articles into the country, it became necessary to make additional provisions in the Customs Act, 1962, so that smuggled goods and attempts at smuggling could be effectively and expeditiously dealt with. In particular action could be taken in respect of goods the import of which for purpose of trade may be banned or generally restricted and such goods may be found in the hands of hawkers etc. who could not explain the legal origin thereof.

By the Customs (Amendment) Act, 1969, different provisions, were inserted in the Customs Act, 1962, so as to empower the Central Government to notify goods which were being illegally imported. Broadly, it was made obligatory on persons who possessed or acquired notified goods

under certain circumstances or above certain limits to furnish suitable declarations about the places of storage and to maintain necessary accounts and issue prescribed vouchers covering sale, transport etc., of those goods."

2.13. During evidence, the Member of the Board stated:

"The position before 1969 was that even when efforts could be made against the hawkers, they would get those things released by the courts. The courts will say, "What is the proof that these are smuggled goods? These may have been given to him by a passenger or these things may have been brought by some body else and given to him or some gift parcel may have come to him." That is why in 1969, to plug the loopholes, this measure was enacted."

2.14. Asked about the effect of this amendment, the Member of the Board stated:

"Even after the legal loopholes were plugged, there was the practical difficulty of employing such a large manpower at so many points. Even then, a large number of raids were being conducted in all the big cities. The only thing is, unless the main source could be dried up, we went on seizing whatever was being displayed. But the thing went on."

2.15. The Committee asked whether after the amendment of MISA there has been a reduction in the smuggling activity. The Member (Customs) stated:

"There is a very considerable reduction in our seizures, although our activity has increased considerably, the seizures are less. From that we can only infer that the total smuggling must have gone down considerably. Also our reports confirm from all sources that since the application of MISA the smuggling has gone down considerably."

The Finance Secretary stated:

"Perhaps, the Committee might want to know about the assessment of the situation and how we have arrived at that finding. Actually there are a few elements on which one can base the same sort of tentative judgment—

one is the Hawala rate of rupee and the other is the value of remittances that are coming in from overseas; thirdly, the volume of seizures etc. that are taking place in the country. I would not say that each one of these tests by themselves is really fully indicative of the situation because it depends upon a number of factors. These indicators taken together broadly indicates the trends and the strengthening of the rupee since the crackdowns apparent. Higher remittances through normal banking channels and also smaller seizures per raid would indicate that there has been a steep fall in the amount of smuggling which is taking place."

2.16. Asked if some smugglers had not left the country, the witness stated:

"There is a group of people who had left the country before September, 1974 against whom we had already passed orders of detention. We are taking them as absconders in the sense that they are not now in our country or they have not come back here. The information that we have is this that those who left the country did so prior to issue of the ordinance in September, 1974."

2.17. Asked if properties of Haji Masthan, and Bhakhia and others had been attached, the witness stated:

"At present the law does not provide for attachment of property except when it is actually involved in smuggling. In respect of property acquired by the activity of smuggling, the law still does not provide for attaching the property."

2.18. The Committee desired to know the punitive measures provided in law to curb the evil of smuggling, apart from preventive measures. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

"Under the law, the punitive measures to curb smuggling are:

- (i) confiscation of the offending goods under the provisions of the Customs Act;
- (ii) levy of personal penalty on the offenders;
- (iii) prosecution proceedings against offenders.

In addition the Ordinance promulgated by the President on 5-11-75 is a punitive measures by way of for-feiture of properties illegally acquired by Smugglers and Foreign Exchange Manipulators."

D. Detentions under MISA and COFE POSA

2.19. The Committee asked about the number of persons detained under the Conservation of Foreign Exchange and Prevention of Smuggling Act. The Joint Secretary, Ministry of Finance stated:

"As on 16th August 1975, a little over 1500 persons have been ordered to be detained. The actual number detained would depend on how many orders have been executed; and according to the information that we have, depending on the seizures, intelligence from abroad, goods available in the market and various other factors, the detentions have had a salutary effect on the quantum of goods smuggled into the country."

2.20. The Committee desired to be furnished with a statement, indicating the number of persons arrested under the Conservation of Foreign Exchange and Prevention of Smuggling Act and the number released by courts. In a written reply the Ministry of Finance (Department of Revenue & Insurance) furnished the following information as on 16th August, 1975:

(i) The number of persons against whom orders of detention had been issued under the COFE POSA Act, 1974 as on 16-8-1975.	1509
(ii) Out of (i) above, the number of persons released by courts.	14
(iii) Out of (i) above, the number of foreigners.	99
(iv) Out of (i) above, the number of Indians normally staying abroad but visiting India often.	11
(v) Others	1399

2.21. The Committee desired to know the number of established, habitual gold smugglers detained under the recent amendment (June 1975) to the MISA and COFEPOSA and the properties of alleged smugglers confiscated. In a written reply the Ministry of Finance (Department of Revenue & Insurance) stated:

"Presumably, the amendment referred to is the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Second Amendment) Ordinance, 1975, promulgated on 1-7-1975. The total number of persons against whom orders of detention have been issued under the COFEPOSA Act (as amended) from 1-7-1975 to 31-1-1976 is 1009.

Orders of detention against these persons have been issued on account of their smuggling activities, be it gold or other goods. The number of smugglers detained only for engaging in the smuggling of gold is not readily available.

There is no provision for confiscating of property under the COFEPOSA Act. The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Ordinance, 1975, (since replaced by an Act) was promulgated in November, 1975; action thereunder is being initiated by the Central Board of Direct Taxes."

2.22. The Committee desired to know the reaction of the Government to quashing of a number of detentions by courts in 1974 on the ground that the reasons for the detention were vague and stale. In a written reply of the Ministry of Finance stated:

"In this connection, it may be pointed out that the total number of persons detained under the Maintenance of Internal Security (Amendment) Ordinance, 1974 was 668. Though, 324 persons had filed writ petitions in the various High Courts challenging their detention only 45 persons were released by the Courts. A number of persons so released by the Courts have also been re-detained. The number of persons released by the Courts is not sufficiently significant to conclude that anti-smuggling operations have generally proved to be ineffective on this score. Further, the number of stray releases by the Courts on some technical ground or the other would not, perhaps, be a pointer reflecting on the effectiveness of the anti-smuggling operations of the Government."

E. Impact of Legislative Measures on the Smuggling of Gold

2.23. The Committee asked whether as a result of various legislative measures taken, smuggling of gold had declined. The Member (Customs) stated:

"For many years gold was one of the most attractive items to smuggle into India because of its small bulk and high value. The international price was quite low compared to the price in India and smuggling was very profitable. But in recent years the difference between the international price and internal price of gold has come down very much and it is no longer that attractive to smuggle gold into India."

2.24. Asked whether it was possible to give the total quantity of gold smuggled into the country, the witness replied:

“It would be difficult for us to answer that because we would not know it.”

2.25. The witness however gave the following figures of gold seized during the period 1966 to 1974:

Year	Value (IMF Rs.)	Rates
1966	195 lakhs	
1967	410 ..	
1968	333 ..	
1969	530 ..	
1970	428 ..	
1971	176 ..	
1972	151 ..	
1973	71 ..	
1974	92 .. (Market Value) ^a	

2.26. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) furnished the following figures of the total value and quantity of smuggled gold seized during the last 5 years:

Years	Quantity	Value (in lakh)
1970	5,079.565 Gms.	428
1971	2,054.206 ..	178
1972	1,779.957 ..	151
1973	840.320 ..	71
1974	184.278 ..	95
1975 (Upto June)	63.650 ..	187

Note:—The value of gold has been shown from 1970 to 1973 in terms of I.M.F. rate and from 1974 onwards in terms of market price in India.

2.27. The Chairman of the Board stated during evidence:

“The Kaul Committee had attempted to make certain estimates. In the body of the report, it has gone on record more than once that this can be only intelligence guess or something like that, and they said that the quantum of smuggling of goods into this country would be of the order of about Rs. 117 crores. But this has been stated that that guess was under-statement, so far as gold smuggling is concerned. I do not know whether the Committee would like to go into some depth into this, because, at present, there is very little smuggling of that as such.”

2.28. Asked whether an idea could be given how an intelligent guess was made by the Kaul Committee. The witness stated: “I don't think our seizure would go beyond about 15 per cent.”

2.29. The Committee desired to be furnished with a note indicating the assessment of Government of the total quantity of gold smuggled into India annually and whether smuggling of gold into India had really decreased or it was only that detection of gold smuggling had come down. In a written reply, the Ministry of Finance stated:

- (a) It is not possible to get any precise indication or assessment of the total quantity of gold smuggling into India annually. However, the value of smuggled gold seized during 1972 to 1974 is given below:

Year	Value of Smuggled gold seized (in lakhs)
1972	151 (at IMF Rate)
1973	71 —do—
1974	95 (at Market price on India).

- (b) There are indications to suggest that the smuggling of gold during the last three years has been on the decline. The detentions or the quantity/value of gold seized is only one of the indicators that are relied upon for assessing the trend of smuggling.

In regard to gold, not only have the seizures come down during the last three years but it is also learnt that

exports of gold from Dubai and Trucial States, which can be said to be the transit point for most of the gold smuggled into India, have shown a downward trend during the last three years. In this regard, the Annual Bulletin Review published by M/s. Samuel Montague & Co., has reported the following figures of export of gold from Dubai and Trucial States:

Years	In Kgs.
1971	73,370
1972	32,178
1973	10,140
1974	1,762

A view, therefore, can be taken that the smuggling of gold into India has come down considerably. This view has also been reinforced by Intelligence reports received by the Government."

F. Difficulties in Anti-smuggling Operations

The Committee desire to know about the anti-smuggling measures taken by the Department. The Finance Secretary stated:

"I would most respectfully submit that the problem of smuggling was known for quite some time. In fact I have been serving in various capacities in the Finance Ministry for the last ten or twelve years and there always was an undercurrent to combat smuggling. To my personal knowledge I know that smuggling was there and it happened to be combated very effectively. Steps were taken to amend the Customs Act in 1969. That was with a view to check smuggling. The very fact that the Gold Control was brought in indicates the awareness of the Government to this problem. But, I am afraid the menace kept on growing and I think, roundabout 1973 and 1974, the volume of seizures was approaching to about Rs. 50 crores a year which indicated that smuggling was really growing a pace and it was, for this reason, that some very drastic measures had to be taken. First, MISA was applied. And later on it was replaced by the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. Simultaneously we felt that with the enormous powers given to the local officers it was necessary

to ensure that the administration functioned healthily and to shift the people if necessary so that those who had spent sufficiently long time in a particular station and who were not effective should be shuffled round and others brought in and so on. Besides that we felt that we should weed out all those people who were either ineffective, inefficient or about whom there was a slightest doubt regarding their integrity. We felt that we had a duty to do so because the Customs and Central Excise Departments are particularly sensitive departments where we have to have a cleaner administration than we can possibly have anywhere else. This was the government's policy which was being implemented to the best of our ability."

2.31. The Committee enquired about the vulnerable areas for smuggling. The Member (Customs) stated:

"The Western Coast area has been considered for a long time to be vulnerable because boats can come there readily. The coast is a very long one and therefore, they can dump their goods at any part of the coast. The Eastern Coast is also vulnerable. Then we have Indo-Nepal border. There is some problem there because goods from third countries can come there. But gold smuggling is not an important commodity there."

2.32. The Committee desired to know whether Goa was particularly associated with smuggling activities. The Director-General, Revenue Intelligence stated:

"I would not consider Goa as more prominent than Daman or any other area on the western coast. In fact, there are many areas which are far more active from the point of view of smuggling of gold, synthetic fabrics and watches, e.g. some of the areas in Saurashtra, certain areas of Bombay and Daman in Goa—not Panjim or Marmagao as such. Daman is certainly a part of the territory of Goa. It is very active but it is not necessary that all these seizures should be made in Daman itself. Many seizures have been made in the interior i.e. Vapi or elsewhere while on way towards Bombay. They are all attributable to Daman smugglers like Bhakia Jagi and others. They belong to that area. There is no doubt about it. I agree

that these areas are active. But to draw a conclusion, that since there is only one seizure that particular area may not be very active, would be correct only up to a point."

The witness added:

"We agree that Goans had come in for a very important role during the Portuguese regime in regard to smuggling; but I would say that the pattern of smuggling has changed very much since liberation. It used to be a totally different *modus operandi*. The size of the consignments involved and the organisation of the gangs were different. Earlier it was individual initiative to a large extent. The articles were carried on the persons of the individuals. The position has totally changed now. Therefore, the old links are not active, but certainly new links have come up. Some fishermen belonging to that area have now become multi-millionaires. The old content in the smugglers' organisation is not very much prominent."

2.34. The Committee desired to know the difficulties experienced by the Department in their anti-smuggling operations and the measures taken to overcome them. The Collector of Central Excise, Delhi who had experience of anti-smuggling operations narrated the following difficulties:

- (i) Intercepting the crafts on high seas;
- (ii) Unravelling the Code on which the smugglers operate;
- (iii) The risk that all the boxes of contraband goods could be thrown 'with the sea as the smugglers fears being trailed;
- (iv) Physical risks involved in interception;
- (v) Hostily or non-cooperation of local people in the villages where smuggled goods are brought under pressure or fear of smugglers;
- (vi) Narrow pathways preventing speedy entry into local villages on the coast;
- (vii) Road blocks placed in interception of vehicles;
- (viii) Smuggling activity carried out by a chain of operations, thereby rendering apprehension of individual, identifiable smugglers difficult.

The statement made by the witness before the Committee is reproduced in Appendix III.

2.35. Asked about smuggling operations by air, the witness stated that Air cargo was not much of a problem.

Asked whether the dhow flew any country's flag, the witness stated that they did but they operated only on the high seas and did not come into Indian waters.

2.36. Asked if there were many casualties on the Indian side and whether rewards were given to the officers, the witness replied:

"We give rewards to our officers who are concerned with seizures. There is also the system of giving Presidential awards".... "But casualties are not high."

2.37. Asked about the difficulty in catching the Indian Collaborators, the witness stated:

"Our effort is to get hold of them, but smuggling being an organised affair, the top men continue to be as far away from the goods as possible. As a matter of fact, none of these top men, as far as my knowledge goes, seal the goods, they just get the information that the consignment has been delivered; they do not even see the goods. Our effort to catch them is by collecting some tangible evidence. When we take them to the court of law without tangible evidence, whatever we might tell the court, it carries the case no further."

2.38. The Committee asked whether the Customs authorities received full cooperation from the Police and Indian Navy in anti-smuggling operations. The Collector of Central Excise, Delhi stated: "We take the help of the people." The Finance Secretary stated:

"We have always asked for the cooperation of the Navy, and in most cases they have given us their co-operation. But they also mention that they are really a fighting service and that their primary job is the defence of the country. So, they have always taken the stand that, if they were to intervene it might have certain international repercussions also because it is really the Indian Navy as such that is intervening. But they have always told us that, if we are in difficulties with any smugglers or any other ships, they are always there to give the necessary backing and support. Whenever an information comes to their knowledge or they actually see smuggling going on, they always give us the information, and the sailors are given rewards also. One thing may be of interest to the Committee. One of

thing may be of interest to the Committee. One of the the most effective anti-smuggling weapons was really the submarine because it goes under water and nobody can see it and when they find contraband goods moving from one Arab dhow to the Indian craft, they are able to apprehend them. Quite a number of rewards have been claimed and given. In fact, the Admiral wrote to me saying that all these rewards should be expedited. We are doing our best to expedite payment of rewards.

The second arm that you have mentioned is Police. We are, in fact, very interested and very keen on having a second line of defence besides the Customs.

The Police do very frequently carry out seizures on their own for which from the Customs Organisation we give the rewards as is laid down in the rules. In fact, the Maharashtra Government has got a special Anti-Corruption Department headed by a special I.G.P. So far as the apprehension of people who have been identified and against whom we have got certain intelligence reports as being people who are habitually engaged in smuggling etc., are concerned, we necessarily have to work in the closest cooperation with the State Governments and with the State Police. It is the Collector of Customs who gives the information to the State Government. This is screened by the State Government's Screening Committee and detention orders are passed by the State Government officers, usually at the level of the Home Secretary. Thereafter, the execution of these orders is a joint action in which both the police and the customs are closely connected."

2.39. Referring to the sympathetic smugglers' village, the Chairman of the Board stated:

"This particular notorious village came to notice a few years ago and Government ultimately had to station two companies of CRP. They stayed there for some months till the conditions were somewhat restored to normalcy."

2.40. The Chairman of the Board added:

"So far as the role of the police is concerned, when these raids are conducted on the hawkers who display goods openly, an activity which is very much on the decline now, police co-operation becomes necessary because sometimes it be-

comes a law and order problem, but the difficulty arises in outlying places. There we have sometimes resorted to the system of stationing CRP. You will be glad to know that we have very recently approached the Chief of the Air Staff, and the Defence Minister himself has recently sanctioned arrangements which are being worked out for some sort of air surveillance in crucial areas of the West Coast by the Indian Air Force by whichever craft is finally selected. As soon as the monsoon is over, it will get started and we are hoping that it will produce results.

The Navy has always helped us in two respects. There are Advisers in the matter of choosing launches etc., and previously they were in fact running them. Even now we are very much dependent either on demobbed officers of the Navy or on officers who are on deputation, but one difficulty that they always express is that in the course of their normal sea patrolling they go round a very much wider circle than our requirements, and if they have to send out a fleet specially for us, they find it difficult to do so, but they have said that if there is very specific information about a specific job and we have not got all the wherewithal, they will come to our assistance."

2.41. The Committee asked why the Department could not stop marketing of smuggled goods when the areas where these were available were known. The Member of the Board stated:

"The ready market in India was in respect of sarees. Whenever we came to know that there was some godown, wherever we could get information either from the source of the Director-General of Intelligence or from the Customs House, we swooped upon them. As we have been trying to explain, there is the whole coast line and, without an adequate fleet, we were not fully equipped to do justice to the job."

2.42. Explaining the difficulties in raiding the shops, the Collector of Central Excise, Delhi stated:

"I have been carrying out raids all the time in Bombay. It is not only Mohta Bazar but small little corner shops which sell these things. The shop-keepers are very good psychologists. They know who is a potential customer and who is not. They display two caris and then they start bargaining. If the customer says "this is not my choice", a small

suitcase comes from some place brought by somebody. Whenever we raided the shops and caught hold of the shop-keepers, a sort of law and order situation used to develop. Even the magistrate once called me and gave me a firing. Whenever we were able to locate the go-downs, the landing place and the transporters, the whole supply line to these shops was disorganised. It always happened that when we seized goods in a landing place worth Rs. 20 lakhs or so, the market price of most of the goods went up. We have had problems when we carried out a mass raid and put, say 80 people in the magistrate's court; along with them another 300 people—their own relations—would be there and when a name like Mohammed Abdullah was called, three people would come forward. So, even the magistrates get annoyed and they say, don't create a law and order problem. Whenever we raided the shops, we met with public resistance. So, public opinion can certainly help. Once I had to enter into correspondence with the Mayor of Bombay. They wrote a letter asking me why the pavement shops were not being cleared. I said, "I am trying my best, but these are the type of problems we face." We would go in a group from one lane to another lane so that we may collect as many men as possible. But we could not suddenly lock up all the shops simultaneously. The result was, we would catch 5 or 6 people and all the others vanish. In the bargain, our officers would lose their caps, get their shirts torn and what not. So, that part of the job was being done, but what we got was certainly a pittance compared to the big seizures from go-downs, landing places and trucks."

2.43. The Finance Secretary stated: "It was only two years ago that we really started going in pretty big way for expenditure on anti-smuggling measures." The Committee pointed out that although smugglers had been going for quite some time, Government did not take serious measures against it till two years ago. The Finance Secretary stated:

"We had woken up a long time ago, but some time had to be taken also to decide on exactly what the remedy was for the purpose and what steps had to be taken, and it is really a case of gaining by experience and feeling our way. I would further submit that this is a continuous and unremitting battle of wits. And, from time to time, tactics will change; strategy will change and we will have to catch

the smugglers in spite of whatever devices or stratagems that they may adopt."

2.44. When the Committee asked whether there was not certain kind of complacency in past in the Department in regard to the nature of the problem, the Finance Secretary stated:

"I still maintain that even with the best of equipment and so on, probably, we would not have achieved the success—of course we did achieve some success—but for the drastic provisions incorporated in the Conservation and Prevention of Smuggling Activities Act. We have had to resort to using the measures of preventive detention on so large a scale as a measure of desperation, merely because normal measures were not proving adequate. And, eventually, these measures were to be used with a view to getting hold of these people, the smugglers, and putting them behind the bar."

2.45. Drawing attention to the observation of the Law Commission that the smuggling had spoilt the public life in our country, the Committee pointed out that these measures should have been used earlier. The Finance Secretary stated: "These measures have now the backing and political will." The witness added:

"I would only submit that since the very initial days when the smuggling menace started raising its head, steps have been continuously taken; there have been several amendments to the Act, in 1969 and onwards and it was quite some years ago that Government decided to strengthen the preventive department and they decided to buy more equipments and patrol boats. Though it took a little more time to buy all the boats, it was only a little more than two and half a years ago that this decision was taken to go in a big way to strengthen the preventive machinery, buy more boats and to put them to patrolling the coast and also to put in a tele-communication net work. I think these results will be showing more and more as the years go by. I would submit that even now with the twenty Norwegian boats we shall have, what we would really require is to have a fairly tight screen. The trouble with the small boat is that it does not have the endurance. They might be fast and speedy. But they cannot go out in bad weather. So, we also have to think in terms of other types

of craft which would have endurance and which would be able to maintain an all-weather patrol. And, there is a talk of having a certain amount of air surveillance which too, I think, will be paying dividends and that would help us immensely. It is for this august Committee to recommend that these measures should be strengthened along the border, particularly the sea-frontiers, which ought to be patrolled and subjected to a much tighter surveillance than they are at present. Let me also go on record that we are not satisfied at present with the measures that have been implemented. We would like to see it strengthened much more and more resources diverted into this particular aspect. I would further submit that at present, because of the emergency provisions and because of some stringent measures such as C.F.E.P.O.S.A. Act and so on, we are able to keep people under preventive detention. But as a normal feature, I think, we should try to make it operationally possible and to proceed against the smugglers and other lawbreakers under the normal law. We should use only the normal laws for the purpose so that we do not have to resort to measures of desperation like the Preventive Detention."

2.46. The Committee drew attention to the press reports about the man-made defects in the anti-smuggling boats. The Member (Customs) stated:

"Out of 20 boats that were imported one suffered very serious damage in collusion with rock. It is beyond economic repair. Except for that all the other speed boats are in good condition. We had a little teething trouble earlier because these boats are very sophisticated and have got the latest system of high-drop propulsion which makes it possible for the boat to come into shallow water and also pick up greater speed when it is on the Sea. Then we had difficulty due to tropical conditions. There was peeling of a part of the bottom. I am not quite sure what is the cause. We brought the engineers from the makers. They had a look and that also is being repaired. Except for these difficulties there is no other trouble."

2.47. The Chairman of the Board stated:

"I would humbly submit that newspaper reports should not be relied upon to levy a serious charge of this nature. Right in

the beginning, they have said perhaps, some sugar has been put in the engine. We had to carry out chemical tests of the oil on the spot and we found that there was no such thing as sugar. I do not know, on what basis, this was reported upon. They are sophisticated boats. They have come here for the first time. We have not got an absolute first hand trained organisation. We have to cope with problem in the shortest possible time. We have taken into our organisation, the Director of Marine, a senior officer from the Navy, who is looking after the training part of it. He is looking after the maintenance side and the maintenance problem in the shortest possible time. We have taken into our course. These are all very large products. Either we should have unsophisticated boats with lower speed and long length and invest a lot of money on them or we have some sophisticated boats of this nature. Of course, in the trial period, in the initial periods, we will be faced with various types of problems. Some of these boats have generally developed some problems. Manufacturer's representatives came—people who have given the hull. The representatives of the people who gave the engines also came. They have set those things right. As soon as the monsoon is over, they will be put through trial to see whether they are suitable, after the repairs. If they carry out all the tests properly, we shall certainly go ahead and place more orders either abroad or with the Garden Reach Workshop in Calcutta, whoever can deliver the goods. We are holding our hands ourselves to first check up properly whether after the damage has been repaired, these are again going to stand the test of times in our Indian waters. So, as soon as the monsoon conditions are over, they will be put through a rigorous test and then a decision will be taken whether these boats were suited to us and whether they should be the last word for us. Depending upon this, a decision will be taken whether we should go in for more of these boats or we should have some other types of boats. But, I would not place reliance on a report of this nature in the Press."

2.48. The Committee asked about the plan to purchase or manufacture more boats. The Finance Secretary stated:

"Even when these Norwegian boats were being acquired the intention was to go in for a fleet of 100 boats of which the bulk were to be made by the Garden Reach Workshop.

They have an agreement with the Norwegians. In fact, these are fibre glass boats. The intention is if we go in for these boats, we shall make them here. The initial order was only for the first 25. We want to try them out and see whether they are successful in the Indian waters before we go in for the full 100."

2.49. The Member (Customs) stated:

"The Garden Reach Workshop have taken the know-how and the intention is if we continue to acquire this kind of boats we shall place orders on them. We took the advice of Garden Reach Workshop and with their assistance, we located these boats. Navy was also in the picture."

G. Further steps required for preventing smuggling

2.50. The Committee asked whether in view of the special nature of anti-smuggling work the question of setting up a separate wing having its own resources without depending on other governmental agencies has been considered. The Chairman of the Board stated:

"So far as intelligence is concerned we have taken steps in recent years to strengthen it quite a bit. At the head of the apex body at the Centre is the Director of Revenue Intelligence who is also Director General of Revenue Intelligence and Investigation and for that purpose has the enforcement Directorate under his wing. We have set-up some centres abroad where we have got our officers but as the Director was stating in the morning that has not proved to be enough and we propose to expand that activity. Whatever centres we have very useful information has been flowing from our own foreign sources. These officers also carry out normal customs work. Similarly, within the country each major custom house and watch major Central Excise Collectorate each has to deal with customs problems have their own intelligence wing. The Director of Revenue Intelligence is posted within 24 hours with this and this information is codified and further supplemented. Then he continues to feed the various field units as to where the activity is likely to start and in what particular way or whether there is a shift in the activity etc. In other words so far as intelligence is concerned we have got a fairly well-equipped organisation which certainly needs further expansion to some extent but the genesis is there and we have a number of very

good informants also in our service. There are registered as well as casual informants. People who have given good cases are known as registered informants and there are casual informants. When they are able to give three or four good cases the local authorities convert them as registered informants. This is how we function in the field. So far as the other aspect namely, operational capability is concerned we have certainly a programme and plan of having full-fledged sea-fleet of customs launches. In 1967 we decided that till we are able to get more launches we should press into service the confiscated launches which were in good shape and which we could use with profit. But it is difficult to contain the problem with 20 speed boats and 40 confiscated boats. This is a point which the Finance Secretary has referred to. With respect I must suggest that preventive detention is a permanent Act, but each detenu under that Act can be detained for a maximum period of two years and that is why I say it is crucial time for us in which we have to disorganise their activity and that is what we are attempting to do all the time. So that when they come out—our wherewithal and machinery should be such as to be able to see that the problems continue to remain contained.”

2.51. Asked in what manner, the Department needed to be helped, the witness stated:

“For the last one and a half years, of course, we have been getting various types of expenditure sanctions. But I would say that with the blessings of this Committee, this process of getting expenditure sanctions for this particular department for operational reasons needs to be drastically simplified.”

The witness added:

“This is so far as the operational side on the sea is concerned. Then, there is the question of man-power for deployment at various places. There I cannot say that we can ever become completely independent. When you go and make some local raids, you have to take the help of certain complement of policemen. Otherwise, there will be a lot of duplication. Therefore, here, cooperation from other sides is implicit. Also, in fields like air surveillance,

it will be a very costly affairs if we have to have our own bases; our own aircraft and our own pilots, without relying on the Indian Air Force. In such fields, interdependence, in the nature of things, will be there and will be usefully there. But, I am very glad to report that from the air force side, we have had excellent response and they propose to come to our assistance in maintaining the air-surveillance, very shortly."

2.52. The Committee asked whether at present, at least there was a beginning of an effort to cope with the smuggling menace effectively. The Chairman of the Board stated:

"Sir, you have put it quite rightly. It is the beginning itself which has meant a tremendous effort. It is really the beginning. It is a gigantic task. As you yourself have rightly observed, during the next year or so, we have got to so organise ourselves that even if the top smugglers, after completing their terms come out, we will be fully in a position to meet the challenge. With regard to launches, these things have been going on from time to time. We have the example of these twenty launches itself. Everybody has to go into every little detail, whether he is a technical man or a man who is to give administrative sanction, so that we buy the right type of launches. If, God forbid, some slight fault is found later on, responsibility, accountability and all other considerations will come in. Therefore, this exercise of locating the correct type of launches continues indefinitely for years together.

That is the sum and substance of it. With your permission, I am taking the liberty of expressing myself a little frankly on this subject. As you know, there were press reports about these launches that this has happened and that has happened. People get confused. There have been parliament questions. Naturally everybody gets extremely cautious in selection of launches. Right from 1960 we have been at it. Starting somewhere in 1967-68 we got one overcraft for three months to see its operational capability. Various proposals were made, but somehow it did not ultimately find favour with the authorities. Thereafter, the Nag Chaudhury Committee went into it. They ultimately recommended and now we have these 20 craft. But they are small size, medium

size fast craft which can play a role in the overall scheme of things. We shall have to have bigger launches which can remain at sea for about a week for long-range petroling. We shall also have to have such smaller boats for going into small creeks. All these things are simultaneously being looked after. In the meantime, after repairs to these 20 craft are complete, tests will be done after the monsoon is over. On the basis of these tests, we propose to place orders for such launches also. That is roughly the plan on which we are operating."

2.53. The Chairman of the Board stated:

"Firstly our activity has not started only with the Emergency. It started since September 1974 when the Preventive Detention was introduced. The smuggling channels between Dubai and the West Coast of India has been completely disorganized because we have locked up all the principal smugglers who, if, this preventive detention was not there, we could not have nabbed them as there was not enough evidence against them to put them up for prosecution before the courts of law."

2.54. The Finance Secretary stated:

"I would submit that there has been a real sea change in the measures taken for combating smuggling after September 1974 when we used the weapon of Preventive Detention either under MISA or under the present conservation of Foreign Exchange and Prevention of Smuggling Activities Act."

"Merely getting hold of the carriers and merely getting hold of the retailers does not in any way affect the big-scale racketeers and it was only under the Preventive Detention Law that we were able to get hold of these smugglers. From the methods set out and the information given about smuggling activities in the various reports they got an idea of what was coming and they worked up the strategy. But the big smugglers were really in some cases beyond the pale of the normal law at that stage because we did not have substantial evidence which would enable us to put them before the courts. That is why I was saying that we have re-organized ourselves in order to make sure that we are able to have the right type of intelligence and that we are able to get at the

big man also. As the chairman of the Board pointed out the Preventive Detention Act has helped us immensely. But it is at best a measure which allows us to detain a big man for a maximum period of two years. After that, under the law as it stands, he has to be released. He cannot be retained for more than two years. We must be in a position by that time to gear ourselves in such a way as to bring specific charges of infringement of the law against him and see that he is punished."

2.54. Asked whether the Arab dhows were primitive or sophisticated. The Chairman of the Board stated:

"They are by their very nature not sophisticated. We can counter them. We have a tremendous advantage in speed. It does not matter if it is sighted far. We can overtake it in no time. The speed advantage in this case is of the essence. It may be far ahead in various directions. We can overtake it. I must also say that the confiscated boats have stood us in good stead when we had nothing else to rely on. One advantage of these is that the smugglers were not always able to detect that this was a customs boat."

2.55. Asked if some plan had been prepared for equipment and personnel required, the Chairman of the Board stated:

"I have reported the position so far as boats are concerned. In other ways we have strengthened ourselves very much during the last one and a half years before PD came. We have shore guard parties, then parties at road junctions connecting the main roads."

H. Linkage between Smuggling and Espionage

2.56. The Committee desired to know how far there was linkage between spying, smuggling and sabotage and what coordinated measures had been taken in this regard. The Finance Secretary stated:

"The Department is really a department of Revenue and the Customs Department is primarily concerned with customs and also with anti-smuggling operations. So far as further aspects of counter-espionage or of anti-sabotage are concerned these are the aspects beyond the scope of the Finance Ministry. There are different organisations under the Government which are responsible for that

purpose. We are not in a position to make any commitments on that. There is coordination to the maximum extent possible but my only submission is that we do not want to give any further information about the activities of other departments.

I may submit also that there is a very high level committee headed by the Cabinet Secretary himself which is concerned with the anti-smuggling operations."

2.57. The Director-General, Revenue Intelligence stated:

"So far as smuggling is concerned, the nodal intelligence agency is my Directorate. With regard to spying and sabotage some other agency of the Government are responsible. There has been a close coordination and consultation between these agencies. We did get evidence, though not conclusive evidence, that smuggling is used as a cover very often for various other activities. This question was in fact discussed in the Northern Zonal Council when the Chief Ministers of this area assembled in Srinagar two months ago. The smuggler would not make a distinction between one commodity and the other and he will go by the profitability only. So, whether it is smuggling of arms or whether it is smuggling of narcotics for a particular purpose or with a particular design in view, it is the profitability that matters most to him. From the indications available, we do have a feeling that in certain cases smugglers do have links which are deeper than mere commercial motivation."

2.58. The Committee desired to be furnished with a note indicating the coordinate efforts, if any, made to combat smuggling espionage and sabotage. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

"Customs officers mainly look for customs offences, and other agencies such as the Police look for other offences such as political espionage and sabotage. However, the importance of coordinating the efforts by the Customs and Police Officers has been stressed to the field formations in order that the Police Officers could collect information to supplement the Customs efforts and the Customs Authorities in turn could share their information of bad characters with the Police. The Police Officers also sup-

plement the Customs efforts for preventive detention and for apprehending the absconders etc.

Intelligence coming to the notice of the Customs field formations having over tones of political espionage and sabotage are communicated to the Directorate of Revenue-Intelligence who in turn get in touch with the Intelligence Bureau or the local Police including C.I.Ds. In matters of greater importance, communications are also sent to the concerned Wing of the Ministry of Home-Affairs."

2.59. One of the factors contributing to the smuggling of gold has been the difference in prices prevailing abroad and in India. But recently the price of gold in the international market has risen and the difference between the international price and the market price in India has been reduced. In India, the price of gold was stated to be about 20 per cent higher than the international price. In the view of the Ministry this margin is not attractive to the smuggler. Besides, the present trend in the international prices may not be lasting; fluctuations in many currencies and consequent speculative activities in the world market may be a temporary phenomenon. The Committee learnt that as the result of a tender called by the Government of US for sale of 2 million ounces of gold, the price came down from \$ 180 per ounce to \$ 160. Further, the announcement of a decision by Member countries that I.M.F. should be allowed to sell 25 million ounces of gold meant that the prices crashed down to \$ 136 per ounce. According to the figures furnished by the Ministry, the price in the London market fell from \$ 192.25 in December, 1974 to \$ 136.50 in December, 1975. But the Indian prices did not follow the same pattern; here that price fell from Rs. 542 per 10 grammes in January, 1975 to Rs. 534 in December, 1975. Obviously, if this trend continues, the difference between the international price and the Indian price will increase and again make smuggling attractive. The Committee, therefore, desire that the Ministry should keep a close watch over the trends in international prices and not relax their vigilance on gold smuggling.

2.60. In most countries outside India, purchase of dollars or rupees is permissible. But such transactions are illegal in India. The Foreign Exchange Regulation Act, 1973 includes a specific provision against the receipt in India of money from abroad, otherwise than through authorised channels. Under the new Act, persons violating foreign exchange regulations are also liable to more stringent penalties and imprisonment. Besides, an officer from the Customs:

Department has been deputed to the Indian High Commission in UK, who feeds from his end the Director of Revenue Intelligence with intelligence reports in this regard.

2.61. In spite of the tightening up of information collection and also the stringent penal provision in the law, the Department could not, it appears, put a stop to the Havala transactions, because of alleged lack of evidence on which to proceed effectively against the operators. It is only in recent months, that by using preventive detention the Havala transactions are stated to have been reduced. The Committee note that some special facilities have also been given to attract inward remittances through authorised channels, and such remittances have increased. According to the estimates made by the Reserve Bank of India, there has been an increase of nearly 75 per cent in the remittances from abroad during the period January-October, 1975, as compared to the corresponding period of 1974. It is not clear to what extent the reported increase in remittance is attributable to the special facilities given to attract inward remittance and how far the anti-smuggling operations and the use of preventive detention have contributed to the result. The Committee are disturbed that the practice of remittances to a large extent by Indian nationals abroad through unauthorised channels has facilitated large scale smuggling by big operators. This practice needs to be firmly and finally ended. The Committee desire that a close watch should be kept over the present trend in the remittances made through authorised channels, so that the relative impact of the special facilities and the anti-smuggling operations could be ascertained. It goes without saying that the Department should keep themselves in close touch with the intelligence agencies in this regard. The Committee understand that a goodly proportion of the Indians settled or working abroad are keenly desirous of remitting their earnings/savings to India, if only certain facilities they consider necessary are provided. The Government of India have no doubt offered recently some concrete inducements in order to attract remittances through authorised channels. However, these facilities do not yet appear attractive enough to the majority of Indian nationals residing abroad and they do not feel like repatriating on current or capital transfer account some of the money they have earned abroad. Government, therefore, would be well-advised to find out precisely what particular difficulties prevent the flow back to India of money that should, naturally, come from her nationals residing in foreign countries. It should also be possible to devise suitable measures to remove such difficulties and help the national economy.

2.62. Government have from time to time sought to combat smuggling by strengthening the provisions of the Customs Act, Gold Control Act and other similar legislation. In 1969, Chapter IV A was introduced in the Customs Act. According to the provisions of this Chapter, every person possessing notified goods is required to furnish a statement of such goods in his possession to the Customs Officer. Such goods acquired by him after the notified date have also to be similarly stated to the appropriate officer. After this amendment the onus of proof, that the goods were not smuggled, rested upon the persons from whose possession the goods were seized. These measures have unfortunately failed to achieve the objective. According to the Ministry, even after the legal loopholes were plugged, there was the practical difficulty of employing large numbers of people at the numerous crucial points. Even so a large number of raids have been conducted especially in big cities. The Committee were told that there were many difficulties in carrying out raids on shops and godowns and in catching the real culprits; quite often, the operators are tricky and the public, who might help, are apathetic. The amendment made to the Customs, Gold Control and Central Excise Acts in 1973 had meanwhile enhanced the maximum imprisonment from five to seven years. From the analysis made by Audit of 30 cases of the period 1970 to 1974, the Committee find that the punishments inflicted were simple imprisonment of one day in 3 cases, rigorous imprisonment from 3 months to 6 months in 22 cases, rigorous imprisonment from 9 months to 18 months in five cases. It appears that the comparatively stringent amendments to the law, did have the desired effect. According to the Finance Secretary, round about 1973 and 1974, the volume of seizures was approaching Rs. 50 crores a year. The increasing pace of smuggling needed more drastic measures to be taken. Government thus promulgated in September, 1974 an ordinance to amend the Maintenance of Internal Security Act 1971. This authorised detention without trial of any person acting in a manner prejudicial to the conservation of foreign exchange or found to be engaged in (i) smuggling goods; (ii) abetting other persons in smuggling goods or (iii) dealing in smuggled goods. The ordinance was in due course replaced by an Act, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974. This Act was further amended from 1st July, 1975 providing inter alia that no grounds for detention were required to be furnished to any detenu under the said Act. According to the information furnished to the Committee, the number of persons against whom orders of the detention had been issued under COFEPOSA Act, 1974 as on 16th August, 1975 was 1509. The number of persons against whom orders of de-

tention have been issued under COFEPOSA Act as amended, from 1-7-1975 to 31-1-1976 is 1000.

2.63. The Committee were informed that 45 persons out of 669 persons detained under MISA Ordinance 1974 were released by Courts. A number of them so released have, however, been re-detained. According to the Ministry, the number of releases ordered by the Courts on technical grounds would not affect the effectiveness of the anti-smuggling operations undertaken by Government. Further, the Smuggler and Foreign Exchange Manipulators (Forfeiture of Property) Ordinance, 1975, (since replaced by an Act) was promulgated in November, 1975, and action thereunder is stated to have been initiated by the Central Board of Direct Taxes.

2.64. The Committee were informed that even with the best of equipment to chase and grab smugglers, the Department could not have achieved the success attending its efforts, but for the drastic provisions incorporated in the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. Normal measures were not proving adequate and large scale preventive detention had become inescapable. Reports received by the Department from all sources were said to confirm that since the application of MISA, smuggling had gone down considerably.

2.65. Smuggling is a most indigenously organised operation. The top man almost always remains as far away from the venue as possible. Efforts by Department to catch them by collecting some tangible evidence were often unsuccessful in the Courts because the normal law of the land left many escape routes to the smuggler. It was only, therefore, through the emergency provisions of COFEPOSA Act that the desired results were achieved. The Committee would like to observe that since the emergency provisions are only a temporary measure and the persons so detained are due to be released after a period of two years, long term solutions to the problem confronting the Department should be also evolved. The Committee are anxious that it should be possible for the Department to proceed against the smugglers and other anti-social law-breakers under the normal law rather than resort to emergency measures that are, by their very nature, temporary. Reformation of the law in this regard should therefore have top priority in the consideration of Government.

2.66. The Committee note that the Board has taken several serious administrative measures recently to check smuggling. With the promulgation of Conservation of Foreign Exchange and Prevention

of Smuggling Act, large powers had been delegated to the local officers and it was necessary at the same time to ensure a cleaner administration. To this end, the Department felt it necessary to transfer persons who had worked for long at a particular station and to weed out those who were ineffective or inefficient or of doubtful integrity. The Committee are anxious that this process of weeding out undesirable officers should receive the constant attention of the Board.

2.67. The Committee have learnt that 20 High Speed boats have been imported from Norway to combat and defeat the craft operated at sea by smugglers. The Department propose to acquire 100 such boats, the bulk of which is to be manufactured by Garden Reach Workshop on the basis of an agreement regarding know-how with Norwegian manufacturers. The Committee drew attention to some press reports about the alleged operational defects in these boats. The Committee are assured that there was some little teething trouble because the boats were of sophisticated build and had the latest system of high-drop propulsion which enables easy movement into shallow water and also the picking up of greater speed when on the sea. Tropical conditions were said also to have caused the peeling of a part of the bottom. Only one boat, it appears, suffered major damage as a result of collision with a rock. The Committee were informed that the manufacturers engineers had looked into these defects and the boats were being repaired. A peculiar charge that some sugar had been put in the engine, was found baseless after chemical tests were made. The Customs Department, however, do not appear to have a first rate and trained organisation for the purpose and problems had to be tackled in the shortest possible time. At the moment a Senior Officer from the Navy is looking after the training programme and also, generally, the maintenance side. The boats were expected to be commissioned after the monsoon and on the basis of their performance, a decision was to be taken about the purchase of more boats of this or some other type. The Committee wish that the reasons for some of the boats having been out of commission should be properly investigated. If, as the Committee were informed, small boats though speedy, could not be used in bad weather, the Department should also decide if other types of all-weather craft should be acquired. A report on the actual utilisation of these boats should be furnished to the Committee.

2.68. The Committee learnt that a certain amount of air-surveillance would largely help the anti-smuggling campaign. That a good
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deal remains to be done is seen in the Finance Secretary's admission that he was not satisfied with the anti smuggling measures implemented so far. While noting some good work undoubtedly done recently, the Committee consider that patrol and surveillance measures should be adequately strengthened so that the menace of smuggling can be overcome.

2.69. While the position had been deteriorating seriously over several years past, it was only a little over two and a half years ago that Government decided to go in a big way to strengthen the preventive machinery by buying more and better patrol boats and installing an efficient telecommunications network. The Committee are constrained to observe that the awareness of the administration in this regard should have been in evidence much earlier. It is also urged that the laudable enterprise of the Department in the recent period should continue to be sustained and not, as is sometimes feared, be slowed down after admirable spurt. The Committee are well aware of the courage displayed by some of our Customs personnel in fighting smugglers whose resourcefulness in their evil operations is often surprising. Government should adequately recognize and reward the heroism, of which the Committee have learnt some instances, of our Customs service. Even more important is the urgency of properly equipping the Customs Department with all essential craft and other sophisticated equipment with which to counter the menace of smuggling. The Committee understand that delays have taken place in the matter of sanction to expenditure for equipment needed badly. Such delays should be eliminated and the procedure appropriately simplified. A report on this issue may also be communicated without delay to the Committee.

2.70. In the 47th Report of the Law Commission there occurs a pregnant observation that "Smuggling, spying and sabotage" are "found in company with each other." The Committee desired to know how exactly coordination, if any, is maintained between the agencies tackling these three nefarious activities and were told that in regard to smuggling the nodal intelligence agency was the Directorate of Revenue Intelligence while other agencies of Government looked after problems arising out of spying and sabotage, there being always close coordination and consultation between these agencies. The Director General, Revenue Intelligence told the Committee that there was evidence, though it was entirely not conclusive, that smuggling was very often used as a cover for various other obnoxious activities. Though normally the smugglers were interested in profit for themselves, there were many indications of

their having other and deeper and more dangerous motivations. This matter appears to have been discussed at a meeting of the Northern Zonal Council held at Srinagar recently, which was attended by the Chief Ministers. The Committee were informed that a high level Committee headed by the Cabinet Secretary was broadly looking after the anti-smuggling operations. The Committee reemphasise their anxiety that smuggling, allied as it often is, with spying and sabotage, represents a grave danger to the security of the country and should be dealt with in a heightened and sustained spirit of seriousness. There should, therefore, be a well thoughtout and patriotically implemented coordination of all the relevant agencies concerned with national security.

CHAPTER III

OTHER ASPECTS

A. Custody and pricing of Confiscated gold

3.1. When the Committee wanted to know how the smuggled gold was preserved, the Member (Customs) stated: "The smuggled gold is usually confiscated and after it is confiscated, it is sent to the Mint. The mint makes it into bars and keeps it on behalf of the Indian Government. He added: "They keep an account of it and we do not get credit for it."

3.2. Asked what checks were exercised at the time of seizure to ensure that a complete inventory of seized goods is adequately made. The Member (Customs) stated:

"We usually have a senior officer to attend to each seizure. Whenever a seizure is made usually, as far as possible, a gazetted officer is in charge of the raiding party."

3.3. Asked about the procedure followed in the case of smuggled goods found unclaimed the witness replied:

"Even when we find it unclaimed, lying on the coast, our officers who seize it would go running down to bring some panchas to make the seizure in the presence of the panchas. As far as possible, we take the help of panchas to make a seizure."

3.4. The Committee asked for a note indicating the checks exercised at the time of seizure to ensure that a complete inventory of the goods seized could be made. In reply, Ministry of Finance (Department of Revenue and Insurance) stated:

"At the time of seizure a detailed list of the goods including their description, country of origin and value is prepared in the presence of the party where available and two Independent witnesses. Signatures of the party and witnesses are obtained on the inventory. On completion of the inventory the seized articles are again verified with the seals of the party and seizing Officer.

In case the party does not have any seal, his signatures along with those of panchas are taken on the sealed packet and then the container is sealed along with one copy of the inventory. Goods are then deposited in the godown of the Government at the Headquarters or of the Division.

The seized goods are tallied with the inventory wherever the sealed packet is opened and the officer who had sealed it is responsible if there is any discrepancy.

In case of seizures of gold and Gold ornaments the purity of gold/ornaments is got ascertained from another goldsmith or a dealer on touch stone. In case of doubt the purity is got determined by the Government of India Mint, Bombay.

Where there are no claimants the Panchnama prepared in the presence of independent witnesses, and it forms the basis for future accounting."

3.5. The Committee asked about the method of assessing the price of gold at the time of seizure. The Member (Customs) stated:

"Formerly we were taking international price because there was no purchase of gold other than at international price and on account of IMF regulations it was not possible to put down the market value of gold. But recently we are putting down the market value because there has been a change in the IMF system."

The witness added: "We are not taking a uniform price. From 1972 onwards we are showing both IMF rate and market rate."

3.6. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated: "The practice in regard to recording value of gold at the time of seizure appears to have been ununiform, and instructions have been issued to bring about uniformity of recording market value. The Panchanama at the time of seizure also records the weight which is the basis on which the gold on confiscation, is sent to the Mint. At the time of confiscation, the value taken is market value."

3.7. The Committee required a detailed note regarding accounting of confiscated gold by the Mint. In response the Ministry of Finance (Department of Revenue and Insurance) stated the following position:

"Prior to June 1951, the procedure was for the Mint to give credit to the Customs Department by book adjustment.

In 1951, the procedure was examined by the C & AG who felt that since Government Accounts were kept on a cash basis, it would be wrong to take credit in Government accounts on the value of the gold before it was actually sold or otherwise utilised by the Government. From this year, therefore, no further credit was given to the Customs Department, but only receipts indicating the weight and date of receipt in the Mint was given. The procedure was reviewed again in 1960 but no change was made.

In 1964, it was decided that the responsibility for watching the disposal of the gold in the custody of the Mint would remain with the Mint and not with the Customs/Central Excise Department. There was a stray case of credit being given to the Customs Department in 1959 when part of the gold with the Mint seems to have been transferred to the Reserve Bank of India, Nagpur as part of our quota with I.M.F.

In 1967, the question of grant of credit was again reviewed, mainly to offset the shortfall in Customs Revenue from the estimated figure. This was pressed for in the D.O. letter dated 26th October, 1967 of the Chairman, Central Board of Excise and Customs to Shri Shiralkar, Additional Secretary, Economic Affairs Department. The reply received in the D.O. letter dated 22nd December, 1967 of Shri Shirali Joint Secretary. Budget was 'credit to the Customs head for this gold can at present be given only by a corresponding debit in the capital head for purchase of gold, necessitating a supplementary grant under the latter head. No particular advantage will be served by such an arrangement.

The confiscated gold received from Customs/Central Excise authorities is melted and taken over to Mint Proforma Account in terms of weight only. No credit for the value of the gold is afforded to the Customs Department unless the gold is actually sold/utilised by the Government. On accumulation of a large quantity, the gold is refined and cast into 4000 ozs. standard Bars and the bars are transferred to the Reserve Bank of India for safe custody on behalf of the Mint. So long as the gold is held in safe custody in the Mint/Reserve Bank of India, the value of

such gold does not appear in the regular accounts. A Proforma Stock Account is maintained for the gold in terms of weight only which is audited by the Accountant General, Bombay, and incorporated in the Appropriation Accounts of the Central Government (Civil).

The aforesaid procedure has been adopted by the Mint after obtaining the views and approval of the Comptroller and Auditor General. According to the Comptroller and Auditor General, since the Government accounts are kept on a cash basis, it is not appropriate to take credit in Government accounts for the value of confiscated gold by credit to Suspense before the gold is actually sold or otherwise utilised by the Government. Such a procedure would be contrary to the instructions contained in the Note below Article 37 of Account Code.

From the facts stated above it would be observed that the value of confiscated gold does not appear in the regular accounts and a Proforma Stock Accounts is maintained for the gold in terms of weight only”.

3.8. The Committee wanted to know the basis on which the seized gold sent to the Mint was valued by the Mint. In written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

“According to the Master of India Government Mint, Bombay, the confiscated gold sent to the Mint is not valued but kept in the safe custody by weight only as per instructions contained in Government of India, Ministry of Finance, letter No. D. 5570/BI/51 dated the 18th June, 1951. The gold is, however, valued at I.M.F. rate (Rs. 84.40 per 10 gms.) for the purpose of their Annual Proforma Accounts.”

3.9. The Committee wished to know how gold stocks held by Government was valued. The Chief Economic Adviser, Department of Economic Affairs stated :

“I shall deal with the first aspect of the question regarding the pricing of that part of gold which is held as part of India's international reserves. Under the Reserve Bank of India Act we have to keep a part of our reserves in the form of gold. Under Section 33(ii) of the Reserve Bank of India Act the Reserve Bank of India is required

by law to keep at least Rs. 200 crores by way of gold bullion coins or foreign securities as backing behind note issues. The gold bullion and coins cannot fall below Rs. 115 crores. The Reserve Bank of India Act also prescribes the manner of valuing this gold. As per the existing statutes, this gold is valued at 35 dollars an ounce with the dollar-rupee rate being taken at Rs. 7.5. In other words, the price of gold per ten grammes works out to Rs. 84.39."

"This is the value as defined in the Reserve Bank of India Act. Since the Act was last amended, there have been very many changes in the international scene. There was devaluation of the dollar which in effect meant that the official IMF price of gold went up from 35 dollars an ounce to 42 dollars an ounce. Very recently the international Monetary Fund has agreed to abolish altogether the official price of gold and when that amendment is approved by the countries—as might happen during the course of next one year—there would be no such thing as IMF official price of gold. After that, the countries would be free to value gold as they like. Already some countries like France have started valuing their gold reserves at ruling market price in the last three months. But, a large number of other countries still continue to value their gold reserves at 42 dollars an ounce whereas as far as we are concerned, we still continue to value it at 35 dollars an ounce with the rupee dollar rate being equal to Rs. 7.5."

3.10. Asked about the impact of the present procedure of valuing gold on the country's trade in the World Market the Chief Economic Adviser stated :

"As far as I can see, it has no harmful effect on our international trade or international financial position."

The witnesses added :

"The countries keep reserves as a provision against a rainy day. As far as our reserves are concerned, a part of them consist of foreign exchange and part of them consist of gold. Most countries in the world regard gold, as an appreciating asset. The result is that in the last ten years, there have been very few countries which have been willing to part their gold reserves. In other

words, gold reserves have come to be regarded as something which have to be used in the last resort. In this background what we have done with regard to gold has also been on the whole a sensible policy because the price of gold in the free market in the last three years has gone up by nearly 300 per cent or more. The fact that we continue to hold on to gold, has worked out to our advantage. As to the method of valuation, that is a purely accounting problem. We cannot value our reserves in any different way until the Reserve Bank of India Act is amended and even if it were amended, it would increase the price of gold only marginally until the articles of IMF are amended. Although we continue to value gold at 35 dollars an ounce, we could, by amending the Reserve Bank of India Act, using the IMF official price, value it at 42 dollars an ounce. Of course, recently some doubts have been expressed about this method of valuation. Some countries now say that they are free to value their gold reserves at the current international market price. If we did value gold at the ruling market price, assuming that that was something which we could do as per legal statutes, the only effect would be that the value of India's external reserves would go up. Some people might think that that would mean that India's international credit rating would go up. But so long as people know what physical stock of gold we have, whether we value it at 35 dollars an ounce or 150 dollars an ounce, as far as our creditors are concerned, I do not think that would make much difference to them."

3.11. Asked whether it was not advisable to value the gold reserves at market price as was done by France, the Chief Economic Adviser stated :

"There could be a difference of opinion on this. But, I would submit that after the oil crisis, France was faced with a very severe balance of payments problem. The French operate an open economy. They do not rely on import controls or restrictions on capital movements to deal with their payment problems. The result was that in the wake of higher oil prices they felt that their external position would become extremely vulnerable. They wanted to meet this situation neither by imposing controls nor by imposing capital controls, but by maintain-

ing a free system of international trade and payments. They could do so, only if they had access to large borrowing powers. Now, they could borrow from the IMF. But, they anticipated that the deficits would be much larger and therefore, they felt that they would have to borrow commercially from international banks in the Euro Dollar Market and elsewhere and in that situation, they felt that if they go to the commercial market, their credit rating would improve if they showed their reserves at actual market price rather than at the official IMF prices. As far as we are concerned, despite the fact that the oil crisis has imposed a very severe strain on our balance of payments, we have managed our international payments reasonably well and we have not felt it prudent to go to the commercial market to borrow on any large scale. In this situation, therefore, I do not think that the fact that we have continued to value our gold at 35 dollars an ounce has, in any way, adversely affected our credit rating or our capacity to borrow as cheaply as we could do otherwise."

3.12. Asked for his views regarding the valuation of confiscated gold at the market rate, the Chief Economic Adviser stated :

"I do not know what purpose would be served. A case could be made for a different method valuation of gold or pricing gold, if we were mobilising privately held gold in India and if we were thinking of transferring that gold abroad. But, if we are merely seizing that gold and putting it aside as part of our reserves. I do not think it really matters whether we value it at one price or the other. It is hardly of any real consequence."

3.13. According to the Annual Report, of the Ministry of Finance the Customs seizures of gold from 1969 to 1974 amounted to 18307 kgs., the value of which at the IMF rate of Rs. 8.44 works out to Rs. 15 crores while the total value of gold lying in the Mints (value at IMF rate of Rs. 8.44 as on 31-3-1974) is Rs. 9.63 crores. The Committee asked for verification of this figure. In a written reply the Ministry stated :

"The figures quoted in the annual Reports pertain to the seizures of gold including gold ornaments from 1969 to 1974. All the gold particularly and gold ornaments that are seized are not necessarily confiscated and sent to the Government of India Mint. During the course of adju-

dication some quantity may be released by the adjudicating authority and some quantity may be confiscated and the owner given an option of redemption of payment of fine. This may be got released by the concerned parties on payment of redemption fine. Further, during the course of appeals and revisions there may be further releases including releases allowed on payment of redemption fine. These things happen particularly in the case of ornaments. Also there is considerable time-lag between seizure and the final despatch of the confiscated gold to the Mints because of the formalities of adjudication, appeal and revision.

From the above it may be seen that the quantity of gold which is finally sent to the Mints cannot agree with the quantity of total seizures effected."

B. Declarations of Gold made under Gold Control Act

3.14. The Committee wanted to know the total quantity, as far as Government was aware, of gold possessed by Private parties in the country. The Gold Control Administrator stated :

"The declaration is required to be given only if a family is holding more than four kilograms of ornaments or an individual holding more than two kilograms of ornaments. Latest figures are that 2969 families and individuals have declared this and the quantity declared is 3401 kilograms of gold.

The Committee desired to know whether any estimate of the total quantity and value of gold available with private individuals/families has been made by Government in addition to quantities declared under the Gold Control Act. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated :

"No such estimate has been made as the same is not necessary for purposes of administration of the Gold (Control) Act, 1968. In individual cases whenever there is any information regarding keeping of gold which is required to be declared but has not been declared, action under the Act is taken."

3.15. The Committee asked what steps were taken to unearth cases in which excess gold was held, the Gold Control Administra-

lor stated :

“We have got the system of informers and if anybody gives any information, the information is checked up and if necessary, raids and searches are conducted.”

3.16. When it was pointed out that in the whole country, the number of families holding gold in excess of the limit might actually be very much more than 2969, the Gold Control Administrator stated :

“In my assessment, I do not think these figures *prima facie* give any indication that this is too much of an underestimate because people who have much wealth they do not keep in the form of gold but they keep in the form of diamonds, pearls, rubies and other precious stones. The number of families who may not be keeping more than four kilograms of gold may not necessarily buy much more than that.”

3.17. The Chairman of the Board stated :

“It is an offence to possess more ornaments than declared, in which case vigorous proceedings will be launched by the department. What is required is a declaration, if a person possesses beyond a certain limit. I think you are quite right in observing that this figure is too low for such a large country. But once a law states that the limit is 4 kg. for every family, one cannot rule out the tendency—it exists—to ‘fragmentize’ and give it to nephews and others, to see that the holding falls within the limit. That has happened and will continue to happen; but the primary question here is that it is only a question of making declaration. If it goes beyond the limit, he can make a declaration and that is the end of it. It is not an offence to possess beyond the limit. Only the possession of primary gold is illegal; but as far as jewellery is concerned, there is no ban, but beyond the said limit, one has to make a declaration. There may be a certain amount of fragmentations and some people also may or may not be declaring their possessions.”

3.18. The Committee desired to be furnished with a note indicating the following information :

(a) the total quantity of gold ornaments and jewellery declared by private individuals/families under the Gold Control Act.

(b) the information available with the Gold Controller regarding the total quantity of gold held by private parties, other than Government and the Reserve Bank of India.

(c) the total quantity of gold held by the Reserve Bank of India.

3.19. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated :

“Total quantity of gold ornaments, including articles, declared under section 16 of the Gold (Control) Act as on 31-12-1974 being in excess of prescribed quantity was 69.28 Mt. tonnes, as per details furnished below:

(1) by private individuals and families	3.4 mt. tonnes
(2) pledged with pawn-brokers	49.11 mt. tonnes
(3) by religious institutions	16.76 mt. tonnes

(b) Gold Control Administration do not have information regarding quantity of gold available with the private parties other than what is stated in reply to (a). Collection of such an information is not provided for under the Gold (Control) Act, nor has this information been considered necessary for administration of Gold (Control) Act.

(c) Total quantity of gold held by the Reserve Bank of India is :

Issue Department	216.27 mt. tonnes
Government Account	54.12 —do—
I.M.F. Account	4,642,842 ounces.

3.20. Asked whether the information collected by the Gold Control Department was utilised for the purpose of income-tax or wealth tax, the Gold Control Administrator stated: “We have full record” and added : “I can assure you that for very many years the coordination has been taking place and informally it has been taking place all along and formal shape to this has been given quite a number of years back”.

The witness further stated :

“So far as these transactions are concerned, certainly the Income-tax authorities look at their accounts when they assess them for income-tax. Our Gold Control Inspec-

tors pay regular visits to these people. As a regular routine, the officers are required to check all the transactions."

3.21. The Committee asked if in all the 2969 cases in which declarations of gold had been made under the Gold Control Act, information had been given to the Wealth-tax Authorities. The Gold Control Administrator stated :

"Individual cases are coordinated at the field level."

He added :

"These coordination Committees have been in existence for a long time and at the field level the Collector of Central Excise, the Collector of Customs, the Commissioner of Income-tax, the representative of Directorate of Revenue Intelligence and the Director, Enforcement, they all meet and they exchange views with regard to any particular case."

3.22. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated :

"Whenever Wealth Tax authorities require information with regard to any individual case or on their own the Gold Control authorities feel that information with regard to particular individuals is likely to be useful to the Wealth Tax authorities, the same is forwarded to the Wealth Tax authorities. It may be mentioned that Section 107 of the Gold (Control) Act enjoins secrecy with regard to declarations except "where it is necessary to make such disclosure" for the purpose of a law."

C. Checks exercised by the Gold Control Administration

3.23. On the Committee wishing to know what checks were exercised by the Department over the trading in gold, the Gold Control Administrator stated :

"The accounts have been prescribed for all the gold dealers, whether big or small. Whenever they purchase or sell any ornaments or standard gold from the mint or from any dealer, they have got not only to keep accounts in their registers which are checked by our Inspectors but they have to keep accounts of the gold indicating by whom purchased and to whom sold. There is complete

record. They are required to send a declaration every quarter to the gold control office indicating the balance that they have got. Therefore, we are keeping track. In case there is doubt during an investigation by the ITO, one can always go and check up with the accounts of that dealer whether the particular transaction did take place."

3.24. Asked about the number of cases in which contravention of the Gold Control Act had come to notice, the Gold Control Administrator stated :

"The contravention is booked if the stocks and the accounts do not tally. With regard to individual transactions, it is not possible to take action if a person has come and purchased certain things, unless there is a law prohibiting a person from purchasing. But when in an income-tax or other investigation we find that a fellow had done something wrong, we are certainly in a position to correlate things and take necessary action."

3.25. The Committee asked whether the Gold Control Department kept a watch over the transactions of gold taking place in the country in order to take necessary remedial steps, the Gold Control Administrator stated :

"We would certainly go all out to administer a law in letter and spirit, but we certainly cannot go beyond the provisions as laid down by the Parliament."

3.26. Asked whether any special powers had been asked for by the Department to prevent abuses, the Chairman of the Board stated :

"Since the import of gold was almost at a standstill during the last 1½ years, Government have been devoting its attention to commodities which have been in the forefront of smuggling. Really speaking, we are not just now devoting much attention to smuggling of gold—not because of the international fluctuations in price which we are aware of—but the situation is very much under watch as to which way the traffic is going to be in future. With all due respect, I would say that the Gold Control Act is a completely diluted Act. Whenever we have gone to the Parliament, there have been consistent opposition from various quarters which said that gold-

smiths and others were very much harmed. Various concessions had, therefore, to be given from time to time. The figure of 2969 persons does not include people in the trade. When we talk about people possessing gold privately beyond a certain quantity, we refer to gold ornaments, because the possession of gold bullion is banned. Possession of gold beyond 4 kgs. by a family has to be declared. It does not have an element of trade. For people in the trade, there are various rules and regulations. It is very easy for private people holding more than 4 kgs. not to bring it to the notice of the Government. It is only a declaration which they have to make. They can bifurcate their possession and give a portion to a son-in-law. Most of the gold held privately continues to be below the limit."

3.27. The Committee desired to know what action was taken against the big dealers for abuses, the Chairman of the Board stated :

"Various returns have been prescribed and these big shopkeepers are submitting them. I think the idea is that if a man has very large transactions in gold, Government should come in with a very heavy hand. Government cannot do it. The point is whether gold is accounted for, or not. If somebody wants to sell an ornament, he might go to dealer 'A'. There should be an entry as to when it was melted and where it has gone. Beyond that, I have no authority today, under the law, to deal with the situation. We can check it and see the physical stock lying with the dealers. We can say that to the extent that it cannot be explained, it must have come from unauthorised channels. But if the gold is accounted for, and if you want us to take action merely on the basis of the quantum of the stock, there is no authority at present. If we have other information that a fellow is indulging in smuggling, those shops are kept particularly under watch."

The witness added: "If the papers do not show any unaccounted gold, if the stocks are explained by proper transactions, we cannot take any action. Merely, because gold is available in large quantities, we cannot take action. The present law does not permit us to do so."

3.28. The Committee desired to be furnished with a statement indicating the number of test checks conducted by the Gold Control Organisation of the stocks of gold and ornaments held by licensed dealers in the cities of Bombay, Calcutta, Delhi and Madras during the years 1971-72, 1972-73, 1973-74 and 1974-75, the number of cases in which unaccounted gold was found and the quantity of unaccounted gold detected. In a note, the Ministry of Finance (Department of Revenue and Insurance) furnished the following information:—

Year	No. of test checks conducted	No. of cases resulting in detection/seizure	Quality detected/seized
BOMBAY			
1971-72	156	2	3.568 gms.
1972-73	158	7	7.982 gms.
1973-74	359	14	11.660 gms.
1974-75	465	21	47.477 gms.
CALCUTTA			
1971-72	234	23	3.660 gms.
1972-73	107	9	1.663 gms.
1973-74	122	14	8.701 gms.
1974-75	88	8	3.610 gms.
MADRAS			
1971-72	107	2	634 gms.
1972-73	104	1	135 gms.
1973-74	109	4	1.620 gms.
1974-75	99	4	1.288 gms.
DELHI			
1971-72	'A'	1	64 gms.
1972-73		9	2.865 gms.
1973-74		12	2.393 gms.
1974-75		17	13.291 gms. -

"A" It has been reported that apart from surprise checks, checks are made for verification of quartely statements and thus

every dealer is visited and checked at least four times in a year apart from surprise checks. The mention of such checks are made in the individual diaries of the officers only. Collection of information from these individual diaries would not appear to be practicable."

3.29. The Committee wanted a statement indicating the number of cases in which the Gold Control Department on their own initiative or on the basis of information from informers had seized gold ornament in excess of the prescribed limit possessed by individuals/families during the last 5 years. In a note, the Ministry of Finance (Department of Revenue and Insurance) stated :

"The number of cases in which the Gold Control Department on their initiative or on the basis of information from informers seized Gold ornaments in excess of the prescribed limit possessed by individuals/families during the last five calendars years 1970 to 1974 are given below:

Year	No. of cases
1970	50
1971	13
1972	19
1973	43
1974	134

3.30. The Committee desired to be furnished with a statement showing the quantity and value of gold and gold ornaments seized, *prima facie*, for contravening the Gold Control Act during the years 1968 to 1971. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated :

"Quantity of gold and gold ornaments seized as reported in the annual Reports for the Ministry of Finance for the first ten months of each year are given below. Some doubt has occurred regarding the accuracy of these figures but since the relevant records have been destroyed, it has not been possible to re-check them or to give the figures for the entire year.

Year	Quantity in kgs.	Value at International rate i.e. @Rs. 84.40 per 10 gms.
1968 (Jan to Oct.)	2287	Rs. 193 lakhs
1969 Do.	4351	Rs. 367 lakhs
1970 Do.	4748	Rs. 401 lakhs
1971 Do.	2313	Rs. 195 lakhs

was not an authoritative official study by the Reserve Bank. One of the officials of the Reserve Bank, Mr. Sinha had made that study; and last year he tried to update those figures in "The Hindu." But those figures are of the total stock of gold existing in India. There is also an estimate—how reliable it is, I do not know of gold smuggled into India. But so far, I do not know of any worthwhile study which estimates the total demand for gold in India. This would, among other things, be a function of a large number of variables party of the rate of inflation and party of the desire to hold wealth in forms which can be easily concealed. I do not know of any, there has been such a study. We have not made it ourselves."

3.34. Asked if it would be worthwhile to undertake such a study, the Chief Economic Adviser stated:

"It would be very difficult. It would not be worthwhile."

3.35. The Committee asked whether in view of the demand for gold in the country being not amenable to effective check, Government should have taken over the trade in gold so that people would at least be assured of its reasonable supply and its price stabilised. The Finance Secretary replied:—

"I am not fully aware as to what exactly was the thinking at the time of the introduction of gold control. If you would permit me, I would bring one or two points to your notice. People generally keep gold only for the purpose of security as a hedge against inflation. They also use gold for a variety of other purposes including the making of ornaments in connection with marriages and so on and so forth. Now, for Government to take on this entire responsibility of entering the jewellery trade and so on, is a big decision to take. So I would submit that these have very far reaching implications, and perhaps for us to give an answer to this question, may not be very appropriate at this stage."

3.36. Asked whether it was a feasible proposition, the Chairman of the Board stated:—

"It is not a feasible proposition. The reason is that you are first throwing out of employment lakhs of goldsmiths,

If the Government has to purchase and sell gold, then making of gold ornaments which was justified by many persons who were advocating that our old craftsmanship should not die out, will be stopped. So many argument had been given that if the Government was to control business then they must first own the Jewellery shops."

3.37. The Committee asked why Government could take over the purchase and distribution of foodgrains but found it difficult to take over trading of gold. The Chairman of the Board replied:—

"The position is that according to the procedure laid down by the I.M.F. Government can buy gold only at the rate prescribed by them. Now if the Government has to buy gold from individual and then sell it to another individual it cannot allow high rate of buying and selling. It was bound by a certain code of conduct laid down by I.M.F."

3.38. Explaining the purpose of the Gold Control Act, the Gold Control Administrator stated:—

"In so far as the Gold Control Act is concerned, it is not possible to check smuggling in of a commodity like gold all along the sea-coast, land borders and at airports. Therefore, necessary measures were introduced to have a complete regulation with regard to transport, keeping of accounts as to how much stock is there, etc. All these regulatory measures were introduced. Now, the idea of these regulatory measures is that we may not have been able to catch the gold while smuggling into India but when this stock is sought to be introduced in the market if every body is required to keep accounts, then it will be difficult for a person to introduce this smuggled gold into the market because he introduces something for which he does not have an explanation. He becomes a suspect. So, to that extent, the Gold Control Act is certainly a help but it is not easy to say that with Gold Control Smuggling of gold will be stopped."

"We have seen the Cabinet papers. The purpose was two-fold, essentially to check the smuggling of gold and thus stop the outflow of foreign exchange and to reduce the demand for gold. That was sought to be done by introducing the 14 carat purity as the maximum. The second

objective was to make the circulation of illicit gold more difficult. In fact, certainly gold control has helped. When a thing is distributed over lakhs and lakhs of goldsmiths all over the country, one cannot say it can be eliminated."

3.39. The Committee asked whether it was not feasible for trading in gold to be taken over by the State Bank of India in collaboration with cooperative institutions in the rural areas so that the goldsmiths were also kept in their jobs. The Finance Secretary stated:—

"This is really a matter that I think goes to well beyond the official level and this is really a matter which has to be viewed by the Government as a whole. But as an officer of the Government, I can only bring one or two points to the notice of the Committee.

One is that this matter would require a serious Study—if the entire trade in gold is handled through Government channels, then it would require a very vast organisation. It is a matter for consideration whether the Government would like to spend its limited resources in this particular sphere and with what advantages, whether there are more profitable or more attractive propositions in which the money and human resources could be devoted. A further point at issue is that of the Government would take on the responsibility of dealing in gold and in ornaments, would it be the intention that every particular citizen or every particular family would be assured of a certain quantity of gold either for marriages or for other purposes?

Does it mean that the foreign exchange resources for importing any gold in excess of what has been produced here should be the first charge on the foreign exchange reserve?

These are very basic issues and the priorities would have to be considered if the matter is referred to Government."

3.40. The Committee asked the Chief Economic Adviser to give his views as to how gold had affected the country's economy. The Chief Economic Adviser stated:—

"I have no hesitation in saying, if we could ensure that gold is phased out as a private asset, that would be a big boom

to this country. If we could mobilise all the gold that exists in this country, we would not need any external assistance our development plans could then be financed out of our own resources. But the question is how to do it? Should we do it through the coercive powers of the State? I have no doubt that this is an area where State Trading might have a useful role to play provided we could ensure that at all levels the State machinery does act in the way we expect it to act. However, I doubt if, merely by bringing gold trade under the State Sector we could ensure that it would function according to desirable social norms.

If gold is allowed to be held as a private asset I think there will always be limitation on our capacity to deal effectively with tax evasion. We may have to make gold policy more stringent. Legal measures may be necessary, but social attitude towards gold may also need to be changed."

3.41. The Committee are of the view that the present arrangements for preparing lists of seized gold and other valuable goods and for their valuation and custody in the various Custom Houses should be carefully reviewed and a precise and uniform procedure laid down. Efforts should be particularly directed to ensure that there is no pilferage of or tampering with the goods at the time of seizure.

The practice at present appears to be that the confiscated gold is transferred by the Customs Department to the mint. On accumulation of a large quantity, the gold is cast into standard bars by the mint and transferred to the Reserve Bank of India for custody on behalf of the mint. A proforma account is maintained for the gold in terms of weight only and incorporated in the Appropriation Accounts of the Central Government (Civil). The procedure has been in vogue since 1951. For the purpose of the Annual Proforma Accounts of the Mint, the practice is to have the gold valued at the International Monetary Fund rate of Rs. 84.40.

3.42. The Committee learnt that the quantity of gold confiscated absolutely, under various laws relating to possession of gold, that is to say, without option to redeem it on payment of fine, was 27,823 kgs. during the period from the beginning of the financial year 1963-64, upto 31st March 1974. However, the total value of gold lying in

the Mints as on 31-3-74, was reported to the Committee to be Rs. 9.63 crores, the value having been computed at the International Monetary Fund rate of Rs. 84.40 per 10 gms. In terms of weight, therefore, this gold lying in the Mints would amount to no more than 11410 kgs. It would follow that the balance of the gold confiscated absolutely, i.e., 16413 kgs. should still be locked up in departmental custody. This is, in the Committee's view, an alarming situation. Apparently it implies that there must have occurred delays not only between seizure and adjudication as well as between adjudication and the passing of the disposal orders but also thereafter in actual disposal through despatch of gold to the Mints. Such laxity cannot be countenanced. The retention of large quantities of gold apparently long periods in the custom House is fraught with great risks which are entirely avoidable. The Committee would like at any rate to know precisely when and how the gold not sent to the mints is stored. The Committee would require also to be assured that the relevant balances are tallied systematically and on the basis of physical verification. Government should undertake without delay a thorough investigation into the entire procedure with a view to eliminating delays at various stages before and after adjudication and to ensure that the actual despatch of gold to the Mints takes place as soon as possible after the seizure.

3.43. The Committee cannot help an impression that the fact that no financial credit for the value of gold confiscated or sent to the Mints is afforded in Government accounts might well have contributed to this apparent lack of control and proper accounting. They would suggest that the procedure evolved in 1951 should be reviewed and a decision taken as to whether it would not be better to keep a value account of the seized and confiscated gold and to allocate credit in Government account for the gold confiscated absolutely.

3.44. The Annual Reports of the Ministry of Finance for the years 1969 to 1974 indicate that the total seizures of gold under the Customs Act in that period amounted, in terms of value to Rs. 15.13 crores. According to the Annual Reports of the Ministry, the quantity of gold seized on account of contravention of the Gold (Control) Act during the first ten months of 1968 to 1971 was 2287 kg. (value Rs. 193 lakhs) in 1968, 4351 kg. (value Rs. 367 lakhs) in 1969, 4748 kgs. (value Rs. 901 lakhs) in 1970 and 233 kg. (value Rs. 195 lakhs) in 1971. It has been stated by the Ministry that some doubt has occurred regarding the accuracy of these figures but since records have been destroyed, it has not been possible to re-check them or to give figures for the entire year. This is indeed a not only de-

plorable but an entirely impermissible situation. It is nothing short of extraordinary that the Ministry does not seem to be aware of the exact quantities or the value of gold seized or held by them at particular points of time. The Committee would like to have a complete statement, as on 31-3-74, of gold seized under both the Acts of gold released, of gold held in departmental custody and of gold sent to the Mints. The Committee would also ask Government to devise forthwith a rational procedure to ensure that a complete inventory is always kept available. Without such safeguards, many conceivable malpractices might take place, but it is the responsibility of Government to check and eliminate them.

3.45. The Committee learnt from the Chief Economic Adviser that according to the Reserve Bank of India Act gold reserve was valued at 35 dollars an ounce with the dollar rupee rate being at Rs. 7.5. As a result of a recent devaluation of the dollar, the official I.M.F. price of gold went up, it appears, from 35 dollars to 42 dollars. Very recently, the International Monetary Fund has agreed to abolish altogether the official price of gold and after approval of that amendment by the Member Countries, there would be no such thing as an I.M.F. official price of gold. Different countries would then be free to value gold as they think fit. In fact it appears that some countries like France have started valuing their gold reserves at the ruling market price. A large number of countries, however, continue to value their gold reserves at 42 dollars an ounce. The Committee are surprised that Government have chosen to continue to value their gold at the IMF rate of 35 dollars an ounce although the revised rate is 42 dollars. The Committee feel that Government should have taken action to amend the Reserve Bank of India Act at the appropriate time. The Committee desire that the question of valuing the gold at market price should be carefully examined and a decision expeditiously taken.

3.46. The Committee regret to note that in regard to the gold that has been seized, there are inaccuracies in the statement of the quantity seized and valuation of such seizure has been very haphazard. Further no uniform practice in this regard has yet been determined. Different methods of valuation have been adopted not only in different periods but also during the same period in different field organisations and also for seizure under the different Act. Even for the same seizures valuation has been found to be different at different stages, such as in the seizure report in the confiscation, in the Mint records, in the figures published in the Ministry's Annual Reports etc. The Committee note that instructions have been issued to bring about uniformity by way of recording the market value.

This near-chaotic situation should be rectified and the Committee urge that a uniform valuation of gold should be introduced retrospectively and the aforesaid accounts should be ascertained and reconciled on that basis.

3.47. The Committee was informed that the total number of families in the country holding gold ornaments in excess of the limit of 4 kg. permitted under the Gold Control Act was 2969. The total quantity of gold ornaments, (including articles declared under the Gold Control Act) as on 31-12-74, being in excess of the prescribed quantity, was reported to be 69.28 metric tonnes. This figure includes 3.4 mt. tonnes declared by private individuals and families, 49.11 mt. tonnes pledged with pawn-brokers and 16.76 mt. tonnes by religious institutions. It was further learnt that the Gold Control Administration had not made any estimate of the quantity of gold available with private individuals and families other than those who have declared their excess possession in terms of the Gold Control Act.

3.48. The Committee are surprised at the assertion of the Ministry that collection of such information was not called for under the Gold (Control) Act, and that in any case it was not considered necessary for effective administration of the Act. The Committee are positive that in order to perform its role properly, the Gold Control Administration, which has been in existence for a number of years now, should have formed an estimate of the position so that it could know the pattern of private holdings of gold in the country and administer the control processes effectively and intensively in those areas particularly where close and careful watch was incumbent.

3.49. The performance of the administration in the past years appears also to be perfunctory. In the whole country, the Administration seized gold in excess of the prescribed limit in 50 cases in 1970, 13 cases in 1971, 19 cases in 1972 and 43 cases in 1973. The number of cases however rose for some reason to 134 in 1974. The amendment of the Gold (Control) Act made in 1973, had meanwhile raised the maximum permissible term of imprisonment to seven years. The Committee are keen that all lethargy is shaken off and the administration should wake up to the more vigilant and intense effort that is called for today.

3.50. After the aforesaid amendment, the number of convictions obtained in the whole country was 34 in 1973 (from September to December), 144 in 1974 and 127 (upto October) 1974. The Committee urge the administration to undertake a review of these cases

to see how far the amendment made in 1973 has made for better results by the provision of deterrent punishment in appropriate cases.

3.51. The Gold Control Act has been in force from 1st September, 1968. The gold control set-up with a gold Controller heading the administration being a part of the Finance Ministry Secretariat and enforcing the law through Central Excise Collectorates, would appear to have been devised more as immediate short term measure with a view to bringing the Act into operation, than as a long-term arrangement to achieve the objectives. From an examination of the evidence tendered before the Committee it is clear that the Gold Controller exercises no real control, nor is he even in possession of necessary information relating to the extent of private holding of gold. It does not appear that he even thought deeply enough over his job to feel even the necessity of such information. The whole mechanism operates defensively and half-heartedly in the process inevitably depending upon voluntary declarations and chance detection during customs, Income-tax and Central Excise raids. This situation calls for reflection and change. Further it is time to review the limits prescribed under the Act for the purpose of declaration. A ceiling of 2000 grams of gold for an individual and 4000 grams of gold for a HUF would appear to afford adequate cover to a private hoarding where both the ceiling could be availed of by a family group which is very often populous. This is possibly the reason why the figure of 69,280 kilograms of gold furnished by the Gold Controller as gold held in private hands appears to be ridiculously low. The Committee cannot, therefore, help feeling that a thorough review of the entire Gold Control set-up, and also the administration of the Gold Control Act, by an expert Committee is immediately necessary with a view to finding out whether the real objectives have been even approximately achieved and what improvement could and should be made to strengthen the Gold Control Administration.

3.52. The Committee are surprised that no official study has been made in regard to different aspect of the demand for gold in the country. The Committee were informed by the Chief Economic Adviser that in his view a study of the demand would be very complicated and therefore not particularly worthwhile. The Committee do not share this stand point and suggest that the matter should be examined carefully. It is indeed very desirable that statistical and other scientifically tenable methods are applied to assess the demand.

3.53. During evidence the Committee enquired whether in order to check the demand for gold, it was thought feasible that trading in gold should be taken over by Government. Some difficulties were explained before the Committee in this regard. First, this might, it was feared, throw a large number of goldsmiths out of employment. Secondly, Government could not buy and sell gold at market price as they were bound by the procedure laid down by the International Monetary Fund to purchase it at the I.M.F. rate. Thirdly, a vast organisation would be needed, entailing a severe burden on the limited resources of the country and it was a moot point whether the expenditure and deployment of the requisite human and other resources would be commensurate with the anticipated advantages. The Committee appreciate these difficulties. The Committee would certainly discountenance any measure which might result in the unemployment of goldsmiths or of artisans workers. This however, does not imply a negative decision on this important issue. The problem of gold price, in view of the IMF rate being what it is, should not be insuperable. The recent amendment to I.M.F. procedure enabling the member countries freely to value their gold at market rate, indicates significant possibilities. The Committee, therefore, recommend that Government should seriously and comprehensively examine whether it would be feasible to entrust the State Bank of India (in collaboration with the co-operative banking institutions etc., in rural areas) to take charge of the trade in gold. In that case, a separate organisation would not be needed and goldsmiths would by no means necessarily be deprived of employment. It should go without saying that in the larger social interest effective measures to regulate the purchase and sale of gold are indispensable. The flow of smuggled gold into the market which has had such adverse effect for long on our economy must be eliminated. Since on the basic findings of the Committee, the Gold (Control) Act has not effectively served this objective, and has at best been a desultorily administered palliative, Government would be well advised to adopt all necessary measures with earnestness and expedition.

APPENDIX I

(Vide para 2.4)

Statement showing price of gold in Bombay and London markets

Year/Month	Bombay Rs. per 10 gms		London US per Tr. Oz	
	Max.	Min.	Max.	Min.
1	2	3	4	5
1970				
January	179.00	172.00	35.00	34.12½
February	175.00	170.00	35.00	34.97½
March	174.00	171.00	35.07	34.98
April	176.00	170.00	35.84	35.84
May	181.00	173.00	36.22½	35.50
June	183.00	177.50	35.64	35.19
July	179.00	172.00	35.50	35.30
August	178.00	172.50	35.87	35.30
September	176.00	170.00	36.27	35.86
October	179.50	171.00	37.66	36.28
November	179.00	172.00	37.60	36.80
December	177.00	172.00	37.90	37.19
1971				
January	180.00	175.00	38.15	37.39
February	190.00	180.00	39.05	38.50
March	195.00	178.00	39.07	38.70
April	189.00	181.00	38.95	38.82
May	199.00	187.00	40.98	39.86
June	190.00	183.50	40.09	39.65
July	187.00	179.00	42.65	40.00
August	198.00	187.00	43.94	41.00

I	2	3	4	5
September	190.00	183.50	42.72	40.70
October	196.00	190.00	42.75	40.40
November	197.00	190.50	43.65	42.00
December	200.00	189.00	43.88	43.00

1972

January	204.00	196.00	48.95	44.00
February	208.00	204.00	48.70	47.49
March	204.00	195.00	48.40	48.23
April	203.00	195.00	49.50	48.81
May	228.00	200.00	59.00	50.00
June	242.00	227.00	66.75	58.80
July	233.00	227.00	67.45	63.50
August	257.00	229.50	68.80	65.75
September	254.50	245.00	67.20	63.80
October	245.00	235.00	64.93	64.10
November	247.00	231.00	64.12	60.10
December	244.50	231.00	65.40	62.25

1973

January	245.00	235.50	66.05	63.90
February	282.50	242.00	95.00	66.40
March	274.00	260.00	91.50	80.25
April	324.00	275.00	92.00	89.25
May	336.00	316.00	114.75	90.30
June	338.00	325.00	127.00	116.20
July	353.00	330.00	127.00	115.50
August	410.00	343.00	117.50	94.75
September	355.00	344.00	106.97	99.50
October	351.00	338.00	103.75	96.75
November	345.00	322.00	101.50	89.75
December	363.00	337.00	112.75	100.00

1	2	3	4	5
1974				
January	439.00	362.00	141.75	114.75
February	590.00	417.00	178.00	132.00
March	525.00	488.00	177.00	158.25
April	566.00	523.00	177.60	166.75
May	561.00	510.00	189.50	155.75
June	520.00	481.00	163.50	143.65
July	535.00	478.00	158.00	133.50
August	518.00	501.00	157.00	152.00
September	537.00	493.00	158.50	146.10
October	529.00	499.00	167.50	154.20
November	536.00	508.00	185.75	168.75
December	527.00	500.00	192.25	170.50
1975				
January	542.00	517.00	185.00	171.25
February	562.00	525.00	186.25	174.00
March	555.00	531.00	181.60	177.00
April	570.00	532.00	177.25	164.25
May	574.00	556.00	172.75	164.50
June	551.00	529.00	166.90	162.50
July	549.00	533.00	166.40	163.30
August	560.00	537.00	166.50	161.60
September	544.00	511.00	155.50	128.75
October	555.00	514.00	145.00	138.00
November	560.00	544.00	146.00	138.50
December	556.00	534.00	142.00	136.50

APPENDIX II

(Vide para 2.11)

Note indicating Special facilities given to attract remittances through authorised channels

(a) *Non-resident (external) accounts designated in Rupees.*—This was introduced in 1970. Persons of Indian Nationality or origin resident abroad may open with authorised dealers in India Non-resident (external) accounts designated in rupees. The funds are required to be transferred to India through Banking channels from the country of residence or from any other country in the external account group. The advantages of opening non-resident (external) account are (a) income accruing on the balances in the accounts is free of Indian income-tax; (b) account holders have the freedom to repatriate the balance, along with the interest accrued thereon, outside India at any time without reference to the Reserve Bank; (c) interest accruing on the accounts may be credited to the accounts freely by authorised dealers; (d) debits to the accounts for local disbursement are freely permissible; (e) purchase of units of the Unit Trust of India, Government securities and National Plan/Savings certificates from out of the balances in these accounts may be made freely; and (f) Dividend/interest on and sale/maturity proceeds/repurchase price of the units, securities or certificates are allowed to be credited to the external accounts, on application to the Reserve Bank.

(b) *Accounts designated in foreign currencies.*—In order to provide to account holders a cover against the risk of any loss arising from fluctuations in exchange rates in currencies a new scheme for opening non-resident (external) account designated in specified foreign currencies (£ Sterling & Dollar for the present) has been introduced with effect from 1st November, 1975. Remittances will have to be received in one of the designated currencies. The foreign currency account will be maintained in the currency in which the remittances are received and the funds will also be repaid to the account holder or transferred elsewhere under his instructions in the same currency. The interest payable on deposit of such accounts

will be free of income tax as in the case of rupee non-resident (external) account. Such interest will also be payable in the currency in which the account is maintained. To start with the accounts are being maintained in the form of fixed deposits for periods of 91 days and above but not exceeding 61 months. All the facilities which are available in respect of operation of non-resident (external) account maintained in Indian rupees will also be available for the accounts maintained in designated foreign currency.

(c) *Liberalisation of Investment opportunities.*—Non-residents of Indian nationality or origin may also freely purchase the units of the Unit Trust, Government securities, National Plan Savings Certificates by remittances from abroad or by debit of their non-resident (external) account. In such cases the dividends/interest and the sale/maturity/repurchase price of the units can be repatriated abroad or credited to the external account with the RBI's prior permission which is granted freely. The entire income from abroad or out of the funds held in non-resident (external) account is exempted from income-tax.

Investments in Industries.—Persons of Indian nationality or origin resident abroad can invest their funds remitted from abroad through banking channels or out of balances lying to the credit of their external account in any public/private limited company or any partnership/proprietorship concern irrespective of the nature of its activities subject to the investor giving an undertaking not to seek repatriation of capital invested as well as the income accruing thereon. Permission or new issues of existing Indian companies is given by the Reserve Bank of India subject to the condition that dividend thereon as well as the sale proceeds (when the shares are sold) are not transferred abroad.

Under a scheme recently introduced non-resident Indians will be allowed to invest new equity issues of new companies in a wide range of selected industries upto 20 per cent of the equity capital with full repatriation facilities in respect of investments and the income accruing thereon provided the remittance is made through a banking channel or from a non-resident (external) account. Such investments will be allowed in all industries with the exception of those included in the negative list which includes only a few industries.

Export of Government securities, National Plan Certificates, Units of Unit Trust of India and Share certificates by companies

purchased by Indian nationals or persons of Indian origin under the facilities mentioned above is freely allowed on application made to the R.B.I.

(d) Priority allotment of motor cars, scooters agricultural tractors, cement against inward remittances of foreign exchange:

Relatives of non-resident Indians and persons of Indian origin who have remitted foreign exchange in favour of the relative in India from their earnings in foreign exchange for the purchase of motor cars/scooters/agricultural tractor/cement are eligible to apply for priority allotment to the Government. Balances held in non-resident (external) account maintained either in Indian rupees or designated in foreign currency can also be utilised in support of application for priority allotment

(e) Indian nationals resident abroad are not required to obtain permission of the RBI for acquiring immovable property in India. Persons of Indian origin holding foreign passports (whether resident or non-resident), however, require the permission of the RBI for such acquisition. Applications for acquiring immovable property are required to be made to the Reserve Bank of India for such prescribed form. Foreign nationals of Indian origin resident abroad will normally be allowed to acquire only one immovable property in each case for residential purposes provided (a) the Bank is satisfied about the reasonableness of the valuation of the property, (b) the purchase prices if paid either out of funds remitted from abroad through banking channels or from funds held in the purchaser's bank account in India, and (c) the applicant gives an undertaking that he will not ask for repatriation outside India of the sale proceeds of the property (if sold at a later date) or the income accruing thereon.

(f) Indian professionals residing abroad will be persuaded to enter into a contract with the Government to remit at least 10 per cent of their earnings periodically to India through authorised channels.

(g) Lastly banking procedures are being simplified with a view to facilitating easy and quick remittances from abroad through banking channels.

APPENDIX III

(Vide Para 2.34)

Statement made by the Collector of Central Excise Delhi, regarding difficulties in Anti-Smuggling Operations

Our anti-smuggling measures on the west coast of which I have some experience are a little different than what usually now happens in the interior. On the west coast, as you all know the smuggling during the last few years has been by dhows. Our anti-smuggling operations have been primarily to catch them as best as we can. In these things, the strategy does play an important part. Secondly, it quite often depends on the nature of information which we may have. For example, if we have information that goods are to be landed at a peculiar spot, our effort in that area would be to catch these goods as soon as they can come on the land. But quite often, when this sort of information may not be there and the information may be that the goods are likely to be transhipped from an incoming Arab dhow to the Indian fishing craft, then we might have to form a team who would go on the high seas and intercept the craft. Our effort in such a situation is always to intercept the Arab craft and, if the Arab craft, atleast the Indian craft with the goods.

There are certain difficulties in an operation on the high seas. The information which we normally get relates to a point which in common parlance may be understandable to fisherman. But to an outsider it is something like searching a needle in the haystack. Quite often, they will use a simple terminology, like, land-mark on the sea, say, 12 fathoms water. Now, 12 fathoms water may be 8 or 10 miles on the sea. When these people try to come over, they have a code. When an Indian boat contacts an Arab boat, that code is almost a secret code between the Arab dhow and the local Indian craft. It can be in the number of lighted two machines two or three matches or even, when they come near to each other, calling out a particular name, like Ismail and the other side calling a name, like, Abdullah. It means, it is a right boat and it is only then a contact is made.

I have had an experience when I went to contact an Arab boat but missed it purely because of the code business. We gave a chase to the boat; both sides fired at each other across the sea and unfor-

tunately, the Arab boat went away. In a situation when we have to deal with boats on high seas, the chance of interception becomes greater if there is better information or the informer is with us. Quite often, the informer is not with us.

Another thing is that when we are able to catch the Arab dhows, we often find they carry|contain cloth bales. Very rarely we have been able to catch dhows either with gold or watches except in one case in which I remember we got 38 jackets containing gold in 1970. We were lucky. They were almost being thrown out. When an Arab craft or an Indian craft is cornered by us, the attempt is to throw away all the boxes of watches and gold. There have been cases where we have caught Arab dhows without anything. In the case of cloth bales they find it difficult to throw them in the sea. That is why we have been able to catch more cases of bales of cloth and some consignments of goods which are heavy to handle rather than watches or gold.

Even when the delivery takes place on the sea, on the Indian craft, the same sort of problem does exist for us. When we try to go out to any one of these spots on the sea, we have to be rather cautious in keeping our identity as secret as possible. That is why quite often we have taken the seized country craft or the Arab craft or even the fishermen craft so that till the last moment, they do not come to know of our identity. One advantage in this thing is that we catch the smuggling craft off the guard. The other thing is that we cannot put two or three crafts to intercept one craft. What happens is that they also are equally suspicious about our activities. If they find two or three crafts going around in the same area, no contact is made and the craft have gone away. We have had accidents where the Arab craft has tried to run away and they thrown stones at us as soon as we came near it. There have been cases where, for intercepting one of the crafts, our boys had to jump overboard. There are cases where Government did recognise the bravery shown by some of the officers. But the fact remains that all these operations do involve sufficient amount of risk on water. This, in a nutshell, is the operation which is carried out on the sea.

On land, we have a different type of problem. Even if we come to know that they are landing goods on a particular spot, there are difficulties. For example, at the place where the goods are to be landed, the smugglers have their own men all round. There have been cases where the goods have been brought very near their own villages and the whole village had turned hostile to us. When this

sort of a situation takes place, it becomes very difficult. We cannot put more men. Also, if the operation is say at 10.00 O'clock in the night, we shall be trying to go into that area around that time only, so that we are not watched. In these cases also, landings are arranged on code. The code signals that the coast is clear and they can arrange to land. When they land, it is just at that time that we try to jump, because if we go there too early when the boat is coming around, they just go back to the water and we are not able to catch.

There was an interesting case in Colaba (Bombay) where a boat was arranging to take silver. It had reversed and was kept in gear for forward movement. As soon as we went, the other man who was having a rope at this and suddenly released it, with the result that the boat shot off. We were able to get only a few ingots. This sort of problem does arise and we try to tackle the situation as best as we can.

When they land these goods in villages like Darola we are at a disadvantage because their entrance is through a channel whereas our entrance to that village is through a main road only. Apart from that, all these villagers are either under the fear of smugglers or under their monetary obligation, and they certainly do not like coming along with the Customs. We have had cases where not even a labourer was available to pick up the goods on which we had laid our hands and we ourselves had to carry the goods all along two or three miles. Quite often we have been way-laid also and some shooting has taken place. This is a job which does not involve some risk and calls for courage and boldness on the part of officers.

Another type of operation is interception of vehicles. We do get information that a particular truck is coming on a particular route. But on these also these persons have an organised system of working. There will be a pilot car and if that car sees all clear, then only the truck will be following. They have their own system of signalling. Here also strategy is quite important—even for making road blocks. We have come across cases where the strategy did work inasmuch as we went past the truck knowing full well that contraband goods were there so that the other persons know that we were not interested, but we reversed back and caught them. Therefore each situation has to be dealt with in a particular way.

Another difficulty is this. There is a chain and that goes on changing. One particular person will know only that he has to take the goods and bring to a particular spot. The second person will know

that he has to take the goods from there and dump in the truck. The truck fellow will only know that he has to take the goods and leave them at a particular point and another man at that particular point will know where he is to deliver. This is a chain, and that sometimes goes on changing. When we catch a particular man, quite often he is only able to give us the name of the landing agent. We catch hold of the landing agent and he says that he is only supposed to carry to a particular place; that is all. When we try to go one step or two steps, we only come across two ends which are not ultimate or the beginning. We do try to investigate cases, and by virtue of the fact that we have intelligence that these goods may be belonging to 'X', a noted smuggler, we try to see how we can connect this person to them. In fact, we have come across cases where the driver did not even know that he was carrying contraband goods. This quite often happens when inter-State movement takes place. For example, the trucks coming from Bombay to Delhi get loaded with not only contraband goods like watches and gold but also other commercial consignments. The truck driver is only asked to take the truck. He says that he has been given only a loaded truck and that he does not know the contents. These are some of the problems which we face at the time of interrogation. But with the intelligence which we have we try to build up as best as we can and try to catch as big a man as we can.

As I have already said, sometimes there is hesitation on the part of the local population to help us. Even when we go to work on information, the whole villagers surround us. I had this experience. The whole villagers had surrounded us and would not allow us to go. We told them who we were and still they would not allow. Ultimately the information we had could not fructify.

We certainly think in terms of having more sophisticated equipment. We are now getting more sophisticated equipment and these will certainly be of use to us.

This, broadly, is the nature of anti-smuggling operation which we carry out. Apart from working on information, we do have routine patrols. Routine patrols consist of a small group of men, both on the sea and on the land, who know the vulnerable areas. . . ."

APPENDIX IV

Conclusions/Recommendations

Sl. No.	Para No.	Ministry Concerned	Conclusions/Recommendations
1	2	3	4
1	1-16	Ministry of Finance (Department of Revenue and Banking) <hr/> Cabinet Secretariat	The Committee note that discent agencies are engaged in dealing with the offences relating to the possession of gold. Government have taken steps to effect coordination between different agencies in the form of a Coordination Committees at Headquarters as well as zonal and local levels, and through exchange of information between different enforcement organisations. However, no statistics of the concrete results achieved as a result of such coordination could be produced. There has thus been so far no correlation of the gold detected during raids conducted by the Gold Controller and Customs Authorities with the gold declared for wealth-tax purposes or in determining the source of gold declared by assessees to the weath tax authority. The Committee also could not get an idea as to how far there was linkage of the gold seized in raids by the Gold

Control and Income Tax Authorities with smuggled gold. The Committee feel that it would be useful to undertake a review of the working of the various enforcement and intelligence agencies engaged in offences relating to the possession of gold so that the position could be more concretely evaluated and all further necessary measures taken.

2

2-59

Ministry of Finance
 (Department of Revenue
 and Banking)

One of the factors contributing to the smuggling of gold has been the difference in prices prevailing abroad and in India. But recently the price of gold in the international market has risen and the difference between the international price and the market price in India has been reduced. In India, the price of gold was stated to be about 20 per cent higher than the international price. In the view of the Ministry this margin is not attractive to the smuggler. Besides the present trend in the international prices may not be lasting; fluctuations in many currencies and consequent speculative activities in the world market may be a temporary phenomenon. The Committee learnt that as the result of a tender called by the Government of US for sale of 2 million ounces of gold, the price came down from \$ 180 per ounce to \$ 160. Further, the an-

nouncement of a decision by Member countries that I.M.F. should be allowed to sell 25 million ounces of gold meant that the prices crashed down to \$ 136 per ounce. According to the figures furnished by the Ministry, the price in the London market fell from \$ 192.25 in December, 1974 to \$ 136.50 in December, 1975. But the Indian prices did not follow the same pattern; here that price fell from Rs. 542 per 10 grammes in January, 1975 to Rs. 534 in December, 1975. Obviously, if this trend continues, the difference between the international price and the Indian price will increase and again make smuggling attractive. The Committee, therefore, desire that the Ministry should keep a close watch over the trends in international prices and not relax their vigilance on gold smuggling.

3 2-60

Ministry of Finance
(Department of Revenue
and Banking)
Department of
Economic Affairs

In most countries outside India, purchase of dollars or rupees is permissible. But such transactions are illegal in India. The Foreign Exchange Regulation Act, 1973 includes a specific provision against the receipt in India of money from abroad, otherwise than through authorised channels. Under the new Act, persons violating foreign exchange regulations are also liable to more stringent penalties and imprisonment. Besides, an officer from the Customs Department has been deputed to the Indian High Commission in UK, who feeds from his end the Director of Revenue Intelligence with intelligence reports in this regard.

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Ministry of Finance

(Department of Revenue
and Banking)

Department of
Economic Affairs

In spite of the tightening up of information collection and also the stringent penal provisions in the law, the Department could not, it appears, put a stop to the *Havala* transactions, because of alleged lack of evidence on which to proceed effectively against the operators. It is only in recent months, that by using preventive detention the *Havala* transactions are stated to have been reduced. The Committee note that some special facilities have also been given to attract inward remittances through authorised channels, and such remittances have increased. According to the estimates made by the Reserve Bank of India, there has been an increase of nearly 75 per cent in the remittances from abroad during the period January—October, 1975, as compared to the corresponding period of 1974. It is not clear to what extent the reported increase in remittances is attributable to the special facilities given to attract inward remittance and how far the anti-smuggling operations and the use of preventive detention have contributed to the result. The Committee are disturbed that the practice of remittances to a large extent by Indian nationals abroad through unauthorised channels has facilitated large scale smuggling by big operators. This practice needs to be firmly and finally ended. The Committee desire that a close watch should be kept over the present trend in the remittances made through authorised channels, so that the relative impact of the special facilities and the anti-smuggling operations could be ascertained. It goes without saying that the Department should

keep themselves in close touch with the intelligence agencies in this regard. The Committee understand that a goodly proportion of the Indians settled or working abroad are keenly desirous of remitting their earnings/savings to India, if only certain facilities they consider necessary are provided. The Government of India have no doubt offered recently some concrete inducements in order to attract remittances through authorised channels. However, these facilities do not yet appear attractive enough to the majority of Indian nationals residing abroad and they do not feel like repatriating on current or capital transfer account some of the money they have earned abroad. Government, therefore, would be well-advised to find out precisely what particular difficulties prevent the flow back to India of money that should, naturally, come from her nationals residing in foreign countries. It should also be possible to devise suitable measures to remove such difficulties and help the national economy. 5

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Ministry of Finance

(Department of Revenue
and Banking)

Government have from time to time sought to combat smuggling by strengthening the provisions of the Customs Act, Gold Control Act and other similar legislation. In 1969, Chapter IV-A was introduced in the Customs Act. According to the provisions of this Chapter, every person possessing notified goods is required to furnish a statement of such goods in his possession to the Customs Officer. Such goods acquired by him after the notified date have also to be similarly stated to the appropriate officer. After this amendment the onus of proof, that the goods were not smuggled, rested upon the persons from whose possession the goods were seiz-

ed. These measures have unfortunately failed to achieve the objective. According to the Ministry, even after the legal loopholes were plugged, there was the practical difficulty of employing large numbers of people at the numerous crucial points. Even so a large number of raids have been conducted especially in big cities. The Committee were told that there were many difficulties in carrying out raids on shops and godowns and in catching the real culprits; quite often, the operators are tricky and the public, who might help, are apathetic. The amendment made to the Customs, Gold Control and Central Excise Acts in 1973 had meanwhile enhanced the maximum imprisonment from five to seven years. From the analysis made by Audit of 30 cases of the period 1970 to 1974, the Committee find that the punishments inflicted were simple imprisonment of one day in 3 cases, rigorous imprisonment from 3 months to 6 months in 22 cases, rigorous imprisonment from 9 months to 18 months in five cases. It appears that the comparatively stringent amendments to the law, did have the desired effect. According to the Finance Secretary, round about 1973 and 1974, the volume of seizures was approaching Rs. 50 crores a year. The increasing pace of smuggling needed more drastic measures to be taken. Government thus promulgated in September, 1974 an ordinance to amend the Maintenance of Internal Security Act, 1971. This authorised detention without trial of any person acting in a manner prejudicial to the conservation of foreign exchange or found to be engaged in (i) smug-

gling goods; (ii) abetting other persons in smuggling goods or (iii) dealing in smuggled goods. The ordinance was in due course replaced by an Act, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act 1974. This Act was further amended from 1st July, 1975 providing *inter alia* that no grounds for detention were required to be furnished to any detenu under the said Act. According to the information furnished to the Committee, the number of persons against whom orders of the detention had been issued under COFEPOSA ACT, 1974 as on 16th August, 1975 was 1509. The number of persons against whom orders of detention have been issued under COFEPOSA Act as amended, from 1-7-1975 to 31-1-1976 is 1009.

6. 2-63 Do.

The Committee were informed that 45 persons out of 669 persons detained under MISA Ordinance 1974 were released by Courts. A number of them so released have, however, been re-detained. According to the Ministry, the number of releases ordered by the Courts on technical grounds would not affect the effectiveness of the anti-smuggling operations undertaken by Government. Further, the Smuggler and Foreign Exchange Manipulators (Forfeiture of Property) Ordinance, 1975, (since replaced by an Act) was promulgated in November, 1975 and action thereunder is stated to have been initiated by the Central Board of Direct Taxes.

7. 2-64 Do.

The Committee were informed that even with the best of equipment to chase and grab smugglers, the Department could not have achieved the success attending its efforts, but for the drastic

provisions incorporated in the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. Normal measures were not proving adequate and large scale preventive detention had become inescapable. Reports received by the Department from all sources were said to confirm that since the application of MISA, smuggling had gone down considerably.

8. 2-65 Ministry of Finance
 (Department of Revenue
 and Banking)

Smuggling is a most indigenously organised operation. The top man almost always remains as far away from the venue as possible. Efforts by Department to catch them by collecting some tangible evidence were often unsuccessful in the Courts because the normal law of the land left many escape routes to the smuggler. It was only, therefore, through the emergency provisions of COFE-POSA Act that the desired results were achieved. The Committee would like to observe that since the emergency provisions are only a temporary measure and the persons so detained are due to be released after a period of two years, long term solutions to the problem confronting the Department should be also evolved. The Committee are anxious that it should be possible for the Department to proceed against the smugglers and other anti-social law-breakers under the normal law rather than resort to emergency measures that are, by their very nature, temporary. Reformulation of the law in this regard should therefore have top priority in the consideration of Government.

9. 2.66 Do.

The Committee note that the Board has taken several serious administrative measures recently to check smuggling. With the promulgation of Conservation of Foreign Exchange and Prevention of Smuggling Act, large powers had been delegated to the local officers and it was necessary at the same time to ensure a clearer administration. To this end, the Department felt it necessary to transfer persons who had worked for long at a particular station and to weed out those who were ineffective or inefficient or of doubtful integrity. The Committee are anxious that this process of weeding out undesirable officers should receive the constant attention of the Board.

10. 2.67 Do.

The committee have learnt that 20 High Speed boats have been imported from Norway to combat and defeat the craft operated at sea by smugglers. The Department propose to acquire 100 such boats, the bulk of which is to be manufactured by Garden Reach Workshop on the basis of an agreement regarding know-how with Norwegian manufacturers. The Committee drew attention to some press reports about the alleged operational defects in these boats. The Committee are assured that there was some little teething trouble because the boats were of sophisticated build and had the latest system of high-drop propulsion which enables easy movement into shallow water and also the picking up of greater speed when on the sea. Tropical conditions were said also to have caused the peeling of a part of the bottom. Only one boat, it appears, suffered major damage as a result of collision with a rock. The Committee were informed that the manufacturers engineers had looked into

these defects and the boats were being repaired. A peculiar charge that some sugar had been put in the engine, was found baseless after chemical tests were made. The Customs Department, however, do not appear to have a first-rate and trained organisation for the purpose and problems had to be tackled in the shortest possible time. At the moment a Senior Officer from the Navy is looking after the training programme and also, generally, the maintenance side. The boats were expected to be commissioned after the monsoon and on the basis of their performance, a decision was to be taken about the purchase of more boats of this or some other type. The Committee wish that the reasons for some of the boats having been out of commission should be properly investigated. If, as, the Committee were informed, small boats though speedy, could not be used in bad weather, the Department should also decide if other types of all-weather craft should be acquired. A report on the actual utilisation of these boats should be furnished to the Committee.

II. 2-68 Ministry of Finance
 (Department of Revenue
 and Banking)

The Committee learnt that a certain amount of air-surveillance would largely help the anti-smuggling campaign. That a good deal remains to be done is seen in the Finance Secretary's admission that he was not satisfied with the anti-smuggling measures implemented so far. While noting some good work undoubtedly done

recently, the Committee consider that patrol and surveillance measures should be adequately strengthened so that the menace of smuggling can be truly overcome.

12. 2-69 Ministry of Finance While the position had been deteriorating seriously over several years past, it was only a little over two and a half years ago that Government decided to go in a big way to strengthen the preventive machinery by buying more and better patrol boats and installing an efficient tele-communications network. The Committee are constrained to observe that the awareness of the administration in this regard should have been in evidence much earlier. It is also urged that the laudable enterprise of the Department in the recent period should continue to be sustained and not, as is sometimes feared, be slowed down after admirable spurt. The Committee are well aware of the courage displayed by some of our Customs personnel in fighting smugglers whose resourcefulness in their evil operations is often surprising. Government should adequately recognize and reward the heroism, of which the Committee have learnt some instances, of our Customs service. Even more important is the urgency of properly equipping the Customs Department with all essential craft and other sophisticated equipment with which to counter the menace of smuggling. The Committee understand that delays have taken place in the matter of sanction to expenditure for equipment needed badly. Such delays should be eliminated and the procedure appropriately simplified. A report
- (Department of Revenue and Banking)
- (Department of Expenditure)

on this issue may also be communicated without delay to the Committee.

13. 2-70 Ministry of Finance

 (Department of Revenue
 and Banking)

 Cabinet Secretaria

In the 47th Report of the Law Commission there occurs a pregnant observation that "Smuggling spying and sabotage" are "found in company with each other." The Committee desired to know how exactly coordination, if any, is maintained between the agencies tackling these three nefarious activities and were told that in regard to smuggling the nodal intelligence agency was the Directorate of Revenue Intelligence, while other agencies of Government looked after problems arising out of spying and sabotage, there being always close coordination and consultation between these agencies. The Director General, Revenue Intelligence told the Committee that there was evidence, though it was entirely not conclusive, that smuggling was very often used as a cover for various other obnoxious activities. Though normally the smugglers were interested in profit for themselves, there were many indications of their having other and deeper and more dangerous motivations. This matter appears to have been discussed at a meeting of the Northern Zonal Council held at Srinagar recently, which was attended by the Chief Ministers. The Committee were informed that a high-level Committee headed by the Cabinet Secretary was broadly looking after the anti-smuggling operations. The Committee reemphasise their

anxiety that smuggling, allied as it often is, with spying and sabotage, represents a grave danger to the security of the country and should be dealt with in a heightened and sustained spirit of seriousness. There should, therefore, be a well thought-out and patriotically implemented coordination of all the relevant agencies concerned with national security.

14 3:41 Ministry of Finance
(Department of Revenue
and Banking)

The Committee are of the view that the present arrangements for preparing lists of seized gold and other valuable goods for their valuation and custody in the various Custom Houses should be carefully reviewed and a precise and uniform procedure laid down. Efforts should be particularly directed to ensure that there is no pilferage of or tampering with the goods at the time of seizure.

The practice at present appears to be that the confiscated gold is transferred by the Customs Department to the mint. On accumulation of a large quantity, the gold is cast into standard bars by the mint and transferred to the Reserve Bank of India for custody on behalf of the mint. **A proforma account is maintained for the gold in terms of weight only and incorporated in the Appropriation Accounts of the Central Government (Civil).** The procedure has been in vogue since 1951. For the purpose of the Annual Proforma Accounts of the Mint, the practice is to have the gold valued at the International Monetary Fund rate of Rs. 84.40. 8

15 3:42 Ministry of Finance
(Department of Revenue
and Banking)

Department of Economic
Affairs

The Committee learnt that the quantity of gold confiscated absolutely, under various laws relating to possession of gold, that is to say, without option to redeem it on payment of fine, was

27,823 kgs. during the period from the beginning of the financial year 1963-64, upto 31st March 1974. However, the total value of gold lying in the Mints, as on 31-3-74, was reported to the Committee to be Rs. 9.63 crores, the value having been computed at the International Monetary Fund rate of Rs. 84.40 per 10 gms. In terms of weight, therefore, this gold lying in the Mints would amount to no more than 1140 kgs. It would follow that the balance of the gold confiscated absolutely, i.e. 16413 kgs. should still be locked up in departmental custody. This is, in the Committee's view, an alarming situation. Apparently it implies that there must have occurred delays not only between seizure and adjudication as well as between adjudication and the passing of the disposal orders but also thereafter in actual disposal through despatch of gold to the Mints. Such laxity cannot be countenanced. The retention of large quantities of gold for apparently long periods in the custom House is fraught with great risks which are entirely avoidable. The Committee would like at any rate, to know precisely where and how the gold not sent to the Mints is stored. The Committee would required also to be assured that the relevant balances are tallied systematically and on the basis of physical verification. Government should undertake without delay a thorough investigation into the entire procedure with a view to eliminating delays at various stages before and after adjudication and to ensure that the actual despatch of gold to the Mints takes place as soon as possible after the seizure.

3-43

Ministry of Finance
(Department of Revenue
and Banking)

Department of Economic
Affairs

The Committee cannot help an impression that the fact that no financial credit for the value of gold confiscated or sent to the Mints is afforded in Government accounts might well have contributed to this apparent lack of control and proper accounting. They would suggest that the procedure evolved in 1951 should be reviewed and a decision taken as to whether it would not be better to keep a value account of the seized and confiscated gold and to allocate credit in Government account for the gold confiscated absolutely.

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The Annual Reports of the Ministry of Finance for the years 1969 to 1974 indicate that the total seizures of gold under the Customs Act in that period amounted, in terms of value to Rs. 15.13 crores. According to the Annual Reports of the Ministry, the quantity of gold seized an account of contravention of the Gold (Control) Act during the first ten months of 1968 to 1971 was 2287 k.g. (value Rs. 193 lakhs) in 1968, 4351 Kg. (value Rs. 367 lakhs) in 1969, 4748 kg. (value Rs. 401 lakhs) in 1970 and 2313 kg. (value Rs. 195 lakhs) in 1971. It has been stated by the Ministry that some doubt has occurred regarding the accuracy of these figures; but since records have been destroyed, it has not been possible to re-check them or to give figures for the entire year. This is indeed a not only deplorable but an entirely impermissible situation. It is nothing short of extraordinary that the Ministry does not seem to be aware of the exact quantities or the value of gold seized or held by them at particular points of time. The Committee would like to have a complete statement, as on 31-3-74, of gold seized under both the

Acts, of gold released, of gold held in departmental custody and of gold sent to the Mints. The Committee would also ask Government to devise forthwith a rational procedure to ensure that a complete inventory is always kept available. Without such safeguards, many conceivable malpractices might take place, but it is the responsibility of Government to check and eliminate them.

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3-45

Ministry of Finance

 (Department of Economic
Affairs)

The Committee learnt from the Chief Economic Adviser that according to the Reserve Bank of India Act gold reserve was valued at 35 dollars an ounce with the dollar rupee rate being at As. 7.5.

As a result of a recent devaluation of the dollar, the official I.M.F. price of gold went up, it appears, from 35 dollars to 42 dollars. Very recently, the International Monetary Fund has agreed to abolish altogether the official price of gold and after approval of that amendment by the Member Countries, there would be no such thing as an I.M.F. official price of gold. Different countries would then be free to value gold as they think fit. In fact, it appears that some countries like France have started valuing their gold reserves at the ruling market price. A large number of countries, however, continue to value their gold reserves at 42 dollars an ounce. The Committee are surprised that Government have chosen to continue to value their gold at the IMF of 35 dollars an ounce although the revised rate is 42 dollars. The Committee feel that Government should have taken action to amend the Reserve Bank

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of India Act at the appropriate time. The Committee desire that the question of valuing the gold at market price should be carefully examined and a decision specifically taken.

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The Committee regret to note that in regard to the gold that has been seized, there are inaccuracies in the statement of the quantity seized, and valuation of such seizure has been, very haphazard. Further no uniform practice in this regard has yet been determined. Different methods of valuation have been adopted not only in different periods but also during the same period in different field organisations and also for seizures under the different Act. Even for the same seizure, valuation has been found to be different at different stages, such as in the seizure report in the confiscation, in the Mint records, in the figures published in the Ministry's Annual Report etc. The Committee note that instructions have been issued to bring about uniformity by way of recording the market value. This near-chaotic situation should be rectified and the Committee urge that a uniform valuation of gold should be introduced retrospectively and the aforesaid accounts should be ascertained and reconciled on that basis.

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The Committee was informed that the total number of families in the country holding gold ornaments in excess of the limit of 4 k.g. permitted under the Gold Control Act was 2969. The total quantity of gold ornaments, (including articles declared under the Gold Control Act) as on 31-12-74, being in excess of the prescribed quantity, was reported to be 69.28 metric tonnes. This figure in-

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cluding 3.4 mt. tonnes declared by private individuals and families, 49.11 mt. tonnes pledged with pawn-brokers and 16.76 mt. tonnes by religious institutions. It was further learnt that the Gold Control Administration had not made any estimate of the quantity of gold available with private individuals and families other than those who have declared their excess possession in terms of the Gold Control Act.

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3-48

Ministry of Finance
(Department of Revenue
and Banking)

The Committee are surprised at the assertion of the Ministry that collection of such information was not called for under the Gold (Control) Act, and that in any case it was not considered necessary for effective administration of the Act. The Committee are positive that in order to perform its role properly, the Gold Control Administration, which has been in existence for a number of years now, should have formed an estimate of the position so that it could know the pattern of private holdings of gold in the country and administer the control processes effectively and intensively, in those areas particularly where close and careful watch was incumbent.

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The performance of the administration in the past years appears also to be perfunctory. In the whole country, the Administration seized gold in excess of the prescribed limit in 50 cases in 1970, 13 cases in 1971, 19 cases in 1972 and 43 cases in 1973. The number of

cases however rose for some reason to 134 in 1974. The amendment of the Gold (Control) Act made in 1973, had meanwhile raised the maximum permissible term of imprisonment to seven years. The Committee are keen that all lethargy is shaken off and the administration should wake up to the more vigilant and intense effort that is called for today.

23 3.50 -do-

After the aforesaid amendment, the number of convictions obtained in the whole country was 34 in 1973 (from September to December), 144 in 1974 and 127 upto October, 1973. The Committee urge the administration to undertake a review of these cases to see how far the amendment made in 1973 has made for better results by the provision of deterrent punishments in appropriate cases.

24 3.51 -do-

The Gold Control Act has been in force from 1st September, 1968. The gold control set-up, with a gold Controller heading the administration being a part of the Finance Ministry Secretariat and enforcing the law through Central Excise Collectorates, would appear to have been devised more as immediate short term measure with a view to bringing the Act into operation, than as a long-term arrangement to achieve the objectives. From an examination of the evidence tendered before the Committee it is clear that the Gold Controller exercises no real control, nor is he even in possession of necessary information relating to the extent of private holding of gold. It does not appear that he even thought deeply enough over his job to feel even the necessity of such information.

The whole mechanism operates defensively and half-heartedly in the process inevitably depending upon voluntary declarations and chance detection during customs, Income-tax and Central Excise raids. This situation calls for reflection and change. Further it is time to review the limits prescribed under the Act for the purpose of declaration. A ceiling of 2000 grams of gold for an individual and 4000 grams of gold for a HUF would appear to afford adequate cover to a private hoarding where both the ceilings could be availed of by a family group which is very often populous. This is possibly the reason why the figure of 69,280 kilograms of gold furnished by the Gold Controller as gold held in private hands appears to be ridiculously low. The Committee cannot, therefore, help feeling that a through review of the entire Gold Control set-up, and also the administration of the Gold Control Act, by an expert Committee is immediately necessary with a view to finding out whether the real objectives have been even approximately achieved and what improvements could and should be made to strengthen the Gold Control Administration.

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3-52

Ministry of Finance
(Department of Revenue
and Banking)

Department of
Economic Affairs

The Committee are surprised that no official study has been made in regard to different aspect of the demand for gold in the country. The Committee were informed by the Chief Economic Adviser that in his view a study of the demand would be very complicated and therefore not particularly worthwhile. The Com-

mittee do not share this stand point and suggest that the matter should be examined carefully. It is indeed very desirable that statistical and other scientifically tenable methods are applied to assess the demand.

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3.52

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During evidence the Committee enquired whether in order to check the demand for gold, it was thought feasible that trading in gold should be taken over by Government. Some difficulties were explained before the Committee in this regard. First, this might, it was feared, throw a large number of goldsmiths out of employment. Secondly, Government could not buy and sell gold at market price as they were bound by the procedure laid down by the International Monetary Fund to purchase it at the I.M.F. rate. Thirdly, a vast organisation would be needed, entailing a severe burden on the limited resources of the country and it was a moot point whether the expenditure and deployment of the requisite human and other resources would be commensurate with the anticipated advantages. The Committee appreciate these difficulties. The Committee would certainly discountenance any measure which might result in the unemployment of goldsmiths or of artisans workers. This however, does not imply a negative decision on this important issue. The problem of gold price, in view of the IMF rate being what it is, should not be insuperable. The recent amendment to I.M.F. procedure enabling the member countries freely to value their gold at market rate, indicates significant possibilities. The Committee, therefore, recommend that Government should seriously and comprehensively

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examine whether it would be feasible to entrust the State Bank of India (in collaboration with the cooperative banking institutions etc., in rural areas) to take charge of the trade in gold. In that case, a separate organisation would not be needed and goldsmiths would by no means necessarily be deprived of employment. It should go without saying that in the larger social interest effective measures to regulate the purchase and sale of gold are indispensable. The flow of smuggled gold into the market which has had such adverse effect for long on our economy must be eliminated. Since on the basic findings of the Committee, the Gold (Control) Act has not effectively served this objective, and has at best been a desultorily administered palliative, Government would be well advised to adopt all necessary measures with earnestness and expedition.

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