

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

(FIFTH LOK SABHA)

TWO HUNDRED AND NINETEENTH REPORT

CUSTOMS RECEIPTS

DEPARTMENT OF REVENUE AND INSURANCE

[Paragraphs of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Customs]



**LOK SABHA SECRETARIAT
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<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
v	2	9	for	form
4	1.9	4	in spite	inspite
6	under 1970-71	5	12, p6, 21, 448	12, 06, 21 448
7	1.17	10	Insert "is" after "collection"	
10	1.21	5	countervei- ling	counter- vailing
12	1.24	7	in July 1974 the Committee	in July 1974. The Committee
13	1.27	2	paragraph	paragraphs
19	1.37	2	Report	Report
20	1.39	17	Break-p	Break-up
23	1.45	2	heir	their
33	2.12	4	89th Report	89th Report
	2.12	6	their 88th Report (5th Lok Sabha) were briefly	the 88th report directly to the Board; and
46	3.27	3	laws	law's
47	3.30	12	disposals	disposal
49	3.32	3	(3rd LS	(3rd Lok Sabha)
	3.33	5	The following	"The following
53		14	Mohta Market	Mohta Market"
56	3.43	1	On the Committee	On the Committee's
62	3.60	2	variation	variations
63	3.64	5	Instructions	instructions
	3.64	7	reconsila- tion delay	reconci- liation delaying
88	Line 12, under column 4 of Sl. No. 14			
89	Line 5, under column 4 of Sl. No. 17		shortage	storage

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
90		under column 3 of Sl.No. 18	(Department of Banking and Revenue	(Department of Revenue & Banking)
92		Line 4, under column 4 of Sl. No. 21	Delete "/" after "pending"	
94		Line 8, under column 4 of Sl. No. 28	co	cost
94		Line 4, under column 4 of Sl. No. 29	Delete "report" after "to furnish"	
		Line 6, under column 4 of Sl. No. 29	Diectorate	Directorate
98		Lines 4-5, under column 4 of Sl. No. 33	I nstructions	i nstructions
		Line 3, under column 4 of Sl. No. 34	of weather. Thus	of weather, thus
99		Line 3, column 4 of Sl.No. 36	weavers' Association	weavers' Association/

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(1975-76)

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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.c.f. 2-4-1976.

INTRODUCTION

1, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Two Hundred and Nineteenth Report on paragraphs of the Report of the Comptroller & Auditor General of India for 1973-74, Union Government (Civil) Revenue Receipts, Volume I—Indirect Taxes relating to Customs.

2. The Report of the Comptroller & 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 these paragraphs at their sittings held on the 21st and 22nd August 1975 (FN & AN) 22nd September, 1975 (FN & AN) and 23rd September, 1975 (FN). The Report was considered and finalised by the Committee at their sitting held on 28th April, 1976 (AN). Minutes of the sittings for 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 II to the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of the Audit Paragraph by the Comptroller & 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 29, 1976.
Vaisakha 9, 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

The total receipts under Major Head I—Customs during the year 1972-73 and 1973-74 are given below:—

	1972-73	1973-74
	Rs.	Rs.
Customs Imports	6,79,50,19,596	8,30,57,82,683
Customs Exports	89,43,60,975	84,00,62,087
Additional Duties	1,10,67,08,208	1,21,20,62,460
Cess on Exports	2,85,12,124	4,03,02,508
Miscellaneous	15,03,18,258	20,39,50,350
Fees, Fines, Forfeiture and Miscellaneous Penalties	6,18,644
Gross Revenue	8,97,49,19,161	10,60,27,78,592
Deduct Refunds and Drawback	40,85,29,222	64,84,35,114
Net Revenue	8,56,63,89,939	9,96,43,43,478

1.2. It will be observed that the receipts have shown an overall increase, though there is a fall of Rs. 5.43 crores under Customs exports. The increase under Customs imports which works out to about Rs. 151 crores, has been explained by the Ministry as follows:—

“The increase in receipts during 1973-74, as compared to those during 1972-73, was largely due to increase in receipts from import duties on account of budgetary changes in the 1973 budget. These changes were estimated to yield an additional revenue of Rs. 154.20 crores. The earlier estimate of additional revenue of Rs. 156.00 crores, had been reduced to Rs. 154.20 crores on account of reduction in import duty on certain items following discussions in Parliament on the budget proposals.”

1.3. Fall in receipts from export duties has been stated to be mainly on account of reduction in export duty on certain categories of jute manufactures on 12-6-1973 and 28-8-1973, which was partly offset by an upward revision of export duty on hides, skins and leathers from 1-1-1974.

1.4. Regarding refunds and drawback, the increase in 1973-74 is nearly 50 per cent over that of 1972-73. In paragraph 1.52 of their 80th Report (Fifth Lok Sabha), the Public Accounts Committee had suggested the desirability of showing, in the accounts, the figures relating to refunds separately from those relating to drawback. The

Ministry have stated that instructions have been issued to show these figures separately from the 1st April, 1974.

[Paragraph 1 of the Report of the Comptroller and Auditor General of India for 1973-74 Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes.]

Reasons for increase in Customs Receipts and decrease in Export Duties

1.5. The Committee desired to know the reasons for increase in custom receipts from import duties and decrease in receipts from export duties during 1973-74. The Finance Secretary stated:

“Speaking generally, one can say that the increases that have taken place in customs import duties are attributable in the main to three reasons. One is that there have been deliberate increases in the rates of duties from time to time. The second reason is the volume of direct imports have increased in certain circumstances, particularly, in things such as fertiliser. The third aspect is that the rates of these duties are *ad valorem* and also because of various factors, some of which are inflationary and some of which have been deliberately introduced for example, with regard to oil products, there has been increase in fertiliser prices and so on. The duty with the same percentage has resulted in a greater amount of cash coming in. This explains the variations broadly on the import side. So far as export duties are concerned, we have only a limited number of export duties. In many cases, we have found it necessary to give up or to reduce some of these export duties, because we want our products to be competitive in international markets where they are subjected often to fierce competition. Instances coming to mind would be the case with regard to carpet backing and jute goods. Carpet backing is consumed primarily in the USA and there has been a continuous feud going on between the jute goods and synthetic substitutes and we have often been required to reduce the export duty on carpet backing and in fact, last year or so, we have actually given it up completely.”

1.6. The Member (Tariff) stated:

“Coming specifically to the increase in revenue collections, in the year 1973-74 over the year 1972-73, which is accounted for almost entirely by import duties, I would divide the reasons in four broad categories. I will enumerate them.

One is, increase in the rates of import duties on selected articles such as unexposed cinematograph film, raw cotton, nylon filament and yarn for tyre manufacture, stainless steel plates, sheets and strips, copper, machinery and allied articles. This is one category. The second category is revision of GATT bound rate. That is, as a result of a waiver secured from the GATT binding, we had reluctantly increased the rates of duties. Now, the items are, tallow wood pulp, steel and alloy steel, certain coal tar dyes and certain raw materials for plastic industries. The third category is the increase on account of additional duties, that is counter-vailing duties on motor spirit, synthetic fibres and yarn etc. consequent on the increase in the rates of central excise duty on these items. The fourth category is the replacement of regulatory duties of customs by auxiliary duties at enhanced rates. These are the four broad categories which account for nearly Rs. 154 crores of the increase."

1.7. Asked whether the increase was due almost entirely to the increase in the rates of duties or increase in quantum of imports or it was inter mixed. The Member of the Board replied:

"It would be more correct to say that it is inter mixed. Some part of it is accounted for by the higher level of imports."

1.8. The Committee asked to what extent the increase in import duties was due to increase in the rates of duty and increase in international prices, the Member of the Board stated:

"While taking the budgetary forecast, the different stages are like this: We revised the budget estimates (here 1972-73) towards the last quarter. We also make a forecast for 1973-74. These are all based on actual realisation and trends in collection on different commodities entering into the import trade. We also take into account the possibility of allocation of foreign exchange in rupee terms. Therefore, whatever may be the inflationary or deflationary effect, the outlay in rupee terms is what we are concerned with. We expect that whatever is the allocation of foreign exchange in rupee terms, there would be import to that extent and we calculate with reference to that. If there is an inflationary trend in the international market, to that extent the quantum of imports gets cut down. It all depends on the overall availability of foreign exchange in rupee terms which is spread over the number of commodities on these fluctuations, but the outlay is limited by

the overall constraint on the availability of foreign exchange in rupee terms."

1.9. Referring to the figures of explanatory memorandum to the Budget of 1973-74, the Committee asked why there was no increase in the receipts from import duty on kerosene and industrial fuel during 1973-74 in spite of increase in international prices. The Member of the Board replied:

"This is because of the rate of duty on these items is specific, not *ad valorem*."

1.10. The Committee asked what proportion of the increase in the custom receipts was directly attributable to the budgetary changes in 1973-74. The Member (Triff) replied:

"About Rs. 154 crores. In our calculations of budgetary effect, we take into account the growth factor, if any, in respect of those commodities on which taxes have been increased. For instance, if we have definite information that in the following year, that is, for the year for which the Budget is presented, there is likely to be an increase in the level of imports, naturally, it is calculated on a higher rate with reference to the higher level of imports. So, it does take into account the growth factor also. Sometimes, an assessment is made on the possible fall in imports also."

1.11. The Committee asked the reasons for decrease in the average rate of basic customs duty from 27.1 in 1971-72 and 29.2 in 1972-73 to 22.3 in 1973-74. The Member (Tariff) stated:

"The information asked for was in respect of basic duty only. While computing these percentages, we excluded the auxiliary or regulatory duties and the additional duties by way of countervailing duty equal to the excise duty chargeable on like indigenous goods. So, whereas the total value of imports for 1971-72 was Rs. 1,824 crores, the basic duty was only Rs. 495 crores. For 1972-73, the total import value was Rs. 1,867 crores and the basic duty was Rs. 546 crores. These basic duties are the percentages of the total import value. They exclude certain duties which are included in the total import duties."

1.12. The Finance Secretary stated:

"I would like to draw your attention to the possible distorting element in it. It will depend upon the components of imports. If in any particular year, the foodgrains import figures were very heavy, the total value of the imports might be quite considerable."

1.13. In a note, the Ministry of Finance (Department of Revenue and Insurance) stated the following reasons for increase in customs receipts during 1973-74, as compared with those in 1972-73:

- “(i) The increase in customs receipts during 1973-74, as compared to those during 1972-73 was largely on account of budgetary changes in the levy of import duties in 1973-74 Budget. These were briefly:—
- (a) Increase in the rates of import duty on selected articles such as unexposed cinematograph films, raw cotton, nylon filament and yarn for tyre manufacture, stainless steel plates, sheets and strips, copper, machinery and allied articles;
 - (b) Revision of GATT-bound rates of import duty on 42 items e.g. tallow, wood pulp, high speed and alloy steel, certain coaltar dyes and certain raw materials for the plastic industry etc.;
 - (c) Increase in the rates of Additional (Countervailing) duty on motor spirit, polyester fibre, nylon etc. consequent on the increase in the rates of Central Excise duty; and
 - (d) Replacement of regulatory duty of customs by auxiliary duty of customs at enhanced rates.

The increase in receipts from import duties was also due to substantial increase in the value of imports mainly of animal and vegetable oils and fats, fertilisers and chemical products, metals, machinery and transport equipment during 1973-74 as compared to the preceding year (1972-73) on account of higher unit value and due to the increase in the level of imports of kerosene oil, high speed diesel oil and crude petroleum.”

1.14. To the question as to how much increase in Customs Receipts was directly attributable to budgetary changes introduced in 1973-74 Budget, the Ministry of Finance (Department of Revenue and Insurance) in their written reply stated:

“Receipts from import duties are interlinked with the level of imports and increase in the rates of import duties introduced in 1973-74 Budget. It is therefore difficult to segregate the actual increase in receipts directly attributable to budgetary changes alone in 1973-74 Budget.”

Reasons for variations between the Budget Estimates and Actuals

1.15. Over the years 1969-70 to 1973-74, the net Customs receipts

have increased substantially as indicated below:—

	1969-70	1970-71	1971-72	1972-73	1973-74
	Rs.	Rs.	Rs.	Rs.	Rs.
Imports	3,26,96,91,588	4,23,13,11,539	6,41,36,92,295	6,79,50,19,596	8,30,57,82,683
Exports	73,59,61,016	61,57,18,939	73,35,86,748	89,43,60,975	84,00,62,087
Additional duties	44,58,06,759	58,54,38,587	66,84,253	1,10,67,08,208	1,21,20,62,460
Cess on exports	1,97,14,203	6,02,57,599	2,08,08,632	2,85,12,124	4,03,02,368
Miscellaneous	6,70,91,478	12,06,21,448	12,60,83,921	15,03,18,258	20,39,50,350
Fees, fines etc.	6,18,644
Gross	4,53,82,65,044	5,61,33,48,112	7,29,08,55,849	8,97,49,19,161	10,60,27,78,592
Deduct Refunds and drawback	30,51,66,670	37,31,84,533	33,41,15,085	40,85,29,222	63,84,35,114
Net Revenue	4,23,30,98,374	5,24,01,63,579	6,95,67,40,764	8,56,63,89,939	9,96,43,43,478

Audit had made the following analysis of the net effect of increase envisaged in the budget proposals since 1970-71:

"1970-71"	
Gain in basic import duties	(+) 27.55
Gain in countervailing duties	(+) 2.20
Less Reduction or abolition of export duties	(-) 9.75
Net gain	(+) 20.00
1971-72	
Gain in basic duties	(+) 67.40
Gain in additional duties	(+) 4.00
Loss in import duties	(-) 7.40
Net gain	(+) 64.00
1972-73	
Gain in basic duties (mostly regulatory duty)	(+) 8.60
Gain in countervailing duty	(+) 13.40
Net gain	(+) 22.00
1973-74	
Gain in basic duties	(+) 152.50
Gain in additional duties	(+) 3.50
Net gain	(+) 156.00

1.17. The budgetary forecast for 1969-70 was Rs. 435.20 crores and actuals were 423.31 crores. The net proposals subsequently to end of 1973-74 account for Rs. 262 crores only. Thus the collection should be of the order of Rs. 700 crores as against which the net collection is Rs. 996 crores. This shows a wide gap."

The Committee desired to be furnished with a note indicating:—

- (i) factors contributing to the increase in revenue.
- (ii) administrative measures taken to tone up the collection of Customs revenue.
- (iii) whether the increase in collection on account of tightening up the machinery and if so, in what respects.

- (iv) how far the international inflationary trends boosted up the revenue and if this was one of the reasons for increase in revenue, whether it could be considered only a temporary phenomenon.

1.19. In a *note the Ministry of Finance (Department of Revenue and Insurance) stated:

“(i) Customs Revenue Receipts are largely accounted for by receipts from import duties and these depend on the value of imports made into the country and the rates of duty applicable from year to year. Apart from the fact that rates of duty were raised, the value of imports also substantially increased during the period. Total imports during 1969-70 were of the order of Rs. 1567 crores; these rose to Rs. 2921 crores over the years 1973-74. Thus, the increase in revenue over the years from 1969-70 to 1973-74 is due to the increase in the rates of duty and the increase in the value of imports.

(ii) & (iii) The following administrative measures which have been taken in the recent past in the different Customs Houses appear to have contributed towards greater effectiveness and efficiency of the Customs organisation and as such have toned up the collection of Revenue:—

1. Strengthening of Internal Audit Department by Supplementing the Ministerial staff by Appraisers.
2. The number of Dy. Collector's posts has gradually been increased with the result that the extent of supervision and control over Functional Units has increased.
3. The Principal Appraisers Cadre has been abolished and replaced by Asstt. Collectors who now function as Group Officers.
4. The Central Exchange scheme has been planned with a view to make available to the concerned Officers the information which might lead to greater accuracy and uniformity in assessment.
5. Drive for realisation of confirmed demands.
6. Finalisation of Audit objections and confirmed demands wherever necessary.
7. Drive towards finalisation of Provisional duty cases and contracts.

*Not vetted by Audit.

8. Finalisation of I.T.C. Bonds and enforcement of terms of the Bond where they have not been complied with
9. Expeditious adjudication of cases.
10. Speeding up closure of manifests and collection of penalties from Steamer agents in manifest clearance Department.
11. The Preventive measures have been tightened up by posting more officers in the Preventive Department and also by creating an anti-smuggling Unit under the charge of an Assistant Collector in some Collectorates where there was no such post earlier.
12. Imports or exports of sensitive items are subjected to thorough scrutiny.

The Revenue Collection depends on a number of factors like:

- (a) Import Policy.
- (b) Utilisation of Import licences which depends *inter-alia* on factors such as availability of credit.
- (c) Budgetary measures which increase or decrease the effective rates of duty leviable on import or export commodities.
- (d) Issue and withdrawal of exemption of Notifications.
- (e) Administrative measures.

The Administrative measures are intended to ensure that there is no revenue leakage and that the arrears of revenue are collected with expedition.

Preventive detentions and other anti-smuggling measures have also made an impact on smuggling activities which have considerably come down. This would have brought up the legitimate trade and consequentially, the revenue. It would be difficult to estimate quantitatively the effect of the administrative measures on the collection of Customs Revenue. It may be mentioned that the Customs Revenue generally depends considerably on the volume of import and Export trade, and the effective rate of duty prescribed for various items from time to time.

- (iv) The rate of change in international prices of various commodities is dependent on the usual economic factors of supply and demand. The last two years have been a

period of unusual movements in international prices. Inflationary trends have certainly boosted up the revenue to an extent but, how far, it is difficult to say. It is too early to say whether the behaviour of international prices in the recent past and consequential increase in revenue can be considered only a temporary phenomenon.'

1.20. Referring to the variation between the budget estimates and actuals for the year 1973-74, the Finance Secretary stated during evidence:

"While I agree certainly whole heartedly that we must try to make as accurate a forecast as possible. I would submit, at least for the year 1973-74 either fortuitously or for any other reason, it does appear that the difference as between the B.E. and actuals has not been very great. That is to say, as between 974 crores the actual is 996 crores. It may be that there have been variations as between different heads, but because of the stability of large numbers these have more or less been evened out and we have got an overall figure which is not very different from the sanctioned B.E. We are here, I would like to submit, dealing with a large number of imponderables. It depends upon prices of international commodities on which we have not got control. Price trends are difficult to forecast. Take copper for instance. At one stage it was round about 1300 to 1400 pounds per tonne. Now it is 700 pounds per tonne. Fertiliser which was around 100 dollars has gone up to 330 dollars. Now these things affect us one way or the other. If there is shortage of any particular item, we have to import it. These are some of the things which can't be foreseen at the time of the budget. However much the refinements introduced we are faced with some imponderables on which we can at best hazard only a guess. However much we refine the statistical system we have to live with certain uncertainty in this matter."

1.21. The Committee asked whether the fertilisers imported either as manure or as urea are not free from duty and if so how the quantity of the value of the fertilisers' import affect the forecasting of revenue. The Finance Secretary stated that "There was also a countervailing duty". In a written reply, the Ministry of Finance stated that the countervailing duty realised on fertilisers was Rs. 790 lakhs, Rs. 551 lakhs, Rs. 583 lakhs, Rs. 914 lakhs and Rs. 1841 lakhs, during the years 1969-70, 1970-71, 1971-72, 1972-73 and 1973-74 respectively.

1.22. According to Budget estimates for 1973-74, a total of Rs. 8.6 crores was anticipated customs revenue from imports of Iron and Steel. It was stated during evidence that at the time of preparation of revised estimates, it was found that the correct yield on this account would be Rs. 120 crores. The Committee desired to know the reasons for this wide variation between the budget estimates and revised estimates. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated

“At the time of finalisation of budget estimates for 1972-73, Steel Ministry had not been able to indicate any firm programme of likely imports of iron and steel during 1972-73, the only indication given was that imports during 1972-73 would be much lower than those during 1971-72. The budget estimate was therefore based on the forecast that had been suggested by the various Collectorates of Customs. Actual imports during 1972-73 were, however, more than anticipated due to:—

- (i) increased requirements of export-oriented engineering industries;
- (ii) mishap in the Rourkela Steel Plan in the previous year (July, 1971) and continued shortage in production;
- (i i) back-log of liberalised import licences issued in the previous year which had expired but had to be re-validated on account of shortages in indigenous production; and
- (iv) general shortage in indigenous supply.”

1.23. The Committee asked how the budget estimates for 1973-74 in respect of imports of iron and steel had been forecast as Rs. 120 crores and whether it was a mere mechanical transportation of the figures worked out in the revised estimates for 1972-73 or it was based on any scientific assessment. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

“Consultations were held with the Department of Steel and it had borne out that the likely imports during 1973-74 would be of the same level as during 1972-73. As such budget estimate for 1973-74 had been placed at the same level as the revised estimate for 1972-73 i.e. Rs. 120 crores. Department of Steel furnished the programme of likely imports after their detailed study regarding total requirements, availability from indigenous sources and the need for imports to meet the requirements and this was

relied upon in finalising the budget estimates of customs revenue from iron and steel during 1973-74.

Expert Committee to suggest ways and means of achieving a more accurate and scientific forecasting of Customs revenue

1.24. In pursuance of the recommendation contained in paragraph 6.1(1) of the 89th Report of the Committee (Fifth Lok Sabha), Government appointed a Committee to examine the question of the gap between budgetary forecasts and actual realisation and to suggest ways and means of a more accurate and scientific forecasting of resources.

The Expert Committee had reported in July 1974 the Committee desired to be furnished with a statement indicating the findings and recommendations of the Expert Committee and the action taken thereon by Government. The statement furnished by the Ministry of Finance (Department of Revenue and Insurance) is given at Appendix I.

1.25. The Committee desired to know the steps taken for obtaining necessary data and market intelligence from the Indian Embassies abroad in view of difficulties in estimating customs revenue caused by certain imponderable factors operating in international trade. The Member (Tariff) stated:

“We would certainly have a second look at the action taken on this particular recommendation and we will see whether we could ask either the Department of Economic Affairs or External Affairs—I am not in a position to commit that—to initiate action and whether they can give certain guidelines with regard to the collection of prices and the system of reporting.”

Subsequently, in a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

“Expert Committee, set up by the Government in January, 1974 to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue, had observed in para 3.13 of their Report that India’s Embassies High Commissions are not likely to provide the best sources of information for forecasting purposes. In view of this finding, the Central Board of Excise and Customs will reply on the departments or agencies of the Government which are most directly concerned with planning of imports as well as foreign exchange budgeting, for the necessary data and market intelligence for the purposes of forecasting of customs revenue.”

1.26. The Committee desired to know when the report of the Expert Committee was received by the Board and when the Board started examination of their recommendations. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

“Report of the Expert Committee appointed to suggest ways and means on achieving a more accurate and scientific forecasting of customs revenue was received by the Board on the 4th July, 1974 and examination of their recommendations was started immediately thereafter in the Board's office.”

1.27. The Committee desired to know the action taken on the recommendations contained in paragraph 3.30 to 4.12 of the Expert Committee. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

“The recommendations observations made by the Expert Committee in paragraphs 3.30 to 4.12 of their Report have been accepted/noted for necessary action. It has been decided to use statistical techniques to supplement the present method, as refined, for the purpose of forecasting of customs revenue. Accordingly, it has been decided to constitute a regular Budget Forecasting Cell in the Board's office. This Cell will, to begin with, handle the work relating to customs budget forecasting. Later this Cell, after some experience, could be expanded to take up the work of excise revenue forecasting also. It is expected that this Cell will be set up shortly. Sanction for the necessary additional staff of sufficient economic statistical experience who should man the Cell has been issued on the 17th January, 1976.

Expert Committee has suggested possible statistical and econometric models for forecasting customs revenue. They have not recommended any specific formula. Possible statistical models would be further examined as soon as the Cell is constituted in the Board's office. Efforts would be made to devise a workable model so as to achieve the object of forecasting of customs revenue on a more scientific basis and to reduce the likelihood of error. Attention in this context is however invited to the Expert Committee's observation in paragraph 4.12 of their Report that the forecasting being an in exact science, the recommendations made by them will not make forecasting more accurate immediately.

Setting up of Analytical Budget Forecasting Cell was discussed with the Director, Central Statistical Organisation. It has since been decided to set up this Cell in the Board's office."

1.28. In paragraph 6.1(1) of their 89th Report (Fifth Lok Sabha), the Committee (1972-73) had also observed:

"If unforeseen factors occur in the course of the year, such as a sudden spurt of imports, the Parliament should be immediately apprised of it by Government who should lay a statement on the Table of both the Houses explaining the unforeseen variation in the estimates and the reasons for them, so as to satisfy Parliament that variations had occurred in spite of the best efforts of the Government to ensure accurate estimating."

Since this recommendation was in paragraph 1.11 of their 114th Action Taken Report (5th Lok Sabha), the Committee (1973-74) observed that decision in this regard should be intimated to them forthwith. In their *reply, the Ministry of Finance (Department of Economic Affairs) stated:

"As had been suggested by the Committee, in clause (1) of paragraph 6.1 of its Eighty-Ninth Report (Fifth Lok Sabha), an Expert Committee to devise ways and means of achieving a more accurate and scientific forecasting of customs revenue was appointed by Government in January, 1974."

The main conclusion reached by the Expert Committee is that the present system of forecasting of customs revenue, based on past data of revenue collections and consultations with other Ministries etc., in regard to their import export programmes, should be supplemented by statistical techniques to provide a more accurate forecasting of the likely level of total imports in the Budget year. However, the Expert Committee recognised that while such modifications in the system of estimation would help in improving forecasting and making it more scientific so as to reduce, though not eliminate altogether, the likelihood of errors, it emphasised that no method, however, scientific, can take into account changes which arise due to abnormal disturbances, e.g. suspension of aid, war, unforeseenable increase in prices of products in the international market and other imponderable fac-

*Not vetted by Audit.

tors. These uncertain factors, over which Government have little control, and such as not only make the task of forecasting customs revenue, with any degree of precision, extremely difficult but also cannot provide an index of what the situation is likely to be even within a short period. As in all other cases, a review of the Revised Estimates of Collections of Customs revenues during the year, in the light of the various factors developing subsequent to the presentation of the Budget Estimates for the year, is submitted to Parliament along with the Budget Estimates for the next year. Report to Parliament of the outlook of the collections of customs revenue, based on the fluctuations over shorter periods during the course of the year, as recommended by the Committee, may not be meaningful and, at any rate, would not be indicative of the picture that is likely to emerge eventually for the year as a whole because of the many and rapidly changing factors, which influence collections in diverge and unpredictable ways from time to time.

Thus, in the light of the Report of the Expert Committee and what has been stated above, the Public Accounts Committee, it is hoped, will reconsider and not press the recommendation for reporting to Parliament whenever unforeseen factors occurring during the course of the year tend to disturb the estimates of the collections of customs revenue."

1.29. In 1973-74, Customs receipts went up to Rs. 996 crores from Rs. 856 crores in 1972-73, the increase being in line with the upward trend noticeable since 1969-70. The Ministry of Finance attributes this phenomenon to the rise in the value of imports as well as of the rates of duty brought about by budgetary changes. It appears, however, that the Ministry cannot quantify the increase in receipts attributable either to budgetary changes or to the rapid change in international prices during the relevant years. Whether the latter phenomenon is only a temporary phase or something more than that seems yet too early for determination. Besides, in Government's view, administrative steps adopted in recent years, including preventive detention and a campaign against smuggling operations, have toned up revenue collection, though the precise effect of such steps cannot yet be estimated quantitatively.

1.30. The Committee feel that it would be useful if the various factors which contributed to the increased revenue are analysed with a view to finding out—

- (i) How far the budgetary changes contributed to the increased collections;
- (ii) to what extent the international price inflation has boosted the revenue and whether it is a temporary phenomenon;
- (iii) how far the increase in collection is due to the tightening up of the administrative machinery and in what respect; and
- (iv) how far the increase in collection is due to avoidably imprecise estimates of collection of revenue.

The Committee desire that this review should be completed in six months and the results intimated to them.

1.31. In pursuance of the recommendation contained in paragraph 6.1(1) of their 89th Report (5th Lok Sabha). Government had in January, 1974 appointed a Committee to examine the question of the discrepancy between budgetary forecasts and actual realisation with a view to more accurate and scientific forecasting of resources. Two of the recommendations of the Expert Committee related to (i) strengthening of the existing machinery in the principal public sector import/export agencies for data collection and for forecasting their future import programme, and (ii) establishment of a short-term forecasting cell in the Department of Economic Affairs, entrusted, inter alia, with the task of forecasting international prices. These have been referred to the administrative Ministries and public sector agencies concerned for necessary action. The Committee have been informed by the Department of Revenue and Insurance that the Central Board of Excise and Customs will rely on the departments or agencies of the Government which are most directly concerned with planning of imports as well as foreign exchange budgeting for necessary data and marketing intelligence for the purpose of forecasting of customs revenue. The Committee attach much importance to these recommendations, particularly in the context of the recent inflationary trends in the international prices. The Committee have in para 1.12 of their 203rd Report (5th Lok Sabha) stressed the importance of a coordinated approach to this entire problem so that positive steps can be taken expeditiously to streamline and refine the existing systems for budgetary forecasts. The Committee have also suggested that the Department of Economic Affairs which is most closely involved in the matter, should play a leading role in this regard. The

Committee desire that immediate action should be taken in this direction and made known to them.

1.32. The Committee note that in pursuance of another recommendation of the Expert Committee it was decided to constitute a regular Budget Forecasting Cell to begin with, to handle the work relating to customs budget forecasting. Later this Cell after some experience was to be expanded and take up the work of excise forecasting also. The sanction for necessary additional staff of sufficient economic/statistical experience has been issued. The Committee expect that the Cell will now be set up without further delay. The Expert Committee had suggested possible statistical and econometric models for forecasting customs revenue. It has been stated that the possible statistical models would be further examined as soon as the Cell is constituted and efforts would be made to devise a workable model so as to achieve the object of forecasting customs revenue on a more scientific and dependable basis. The Committee wish that this examination is completed soon and the progress intimated to them.

1.33. In paragraph 6.1(1) of their 89th Report, the Committee had observed that if any unforeseen factors occur in the course of the year, such as a sudden spurt in imports, Parliament should be immediately apprised of it by Government explaining the unforeseen variation in estimates, so that Parliament could satisfy itself that variation had occurred inspite of Government's effort to ensure accurate estimating. In their reply the Ministry of Finance (Department of Economic Affairs) have stated that as in all other cases a review of the Revised Estimates of collections of Customs revenue during the year, in the light of the various factors developing subsequent to the presentation of the Budget Estimates for the year, is submitted to Parliament along with the Budget Estimates for the next year. Such reports, however, based as they are on the fluctuations over short periods during the course of the year, may not be adequate and at any rate would not be indicative of the picture likely to emerge eventually for the year as a whole because of the many and rapidly changing factors which influence collections in unpredictable ways from time to time. The Committee, thus, are not satisfied with the Ministry's reply. The Committee recommend that Parliament should be contemporaneously informed about whatever major unforeseen factors occur during the course of the year and have an impact on revenue collection. That is a worthwhile exercise which Government should not grudge undertaking.

Miscellaneous Receipts

1.34. The Committee desired to know the nature of receipts accounted for under the sub-head "Miscellaneous" which amounted to

Rs. 20.39 crores in 1973-74. In a note, the Ministry of Finance (Department of Revenue and Insurance) stated:

"The nature of receipts which are accounted for under the minor head "miscellaneous" under the major "I—Customs" are:

- (a) Recoveries on account of customs Establishment at private wharf unless credited by deduction from charges.
- (b) Commission on Little Bases Light Dues and on Straits Light Dues.
- (c) Warehouse and Wharf Rents.
- (d) Fees for registration of cargo boats.
- (e) Sale proceeds of opium and other contraband goods confiscated by customs authorities; and
- (f) Fees, fines, forfeitures and miscellaneous items.

According to the information furnished to Committee on 18th August, 1975, the net realisations year-wise under the minor head "Miscellaneous" during the period from 1969-70 to 1971-72 were as follows:—

Year	Rupees in lakhs
1969-70	4.43
1970-71	10.91
1971-72	11.50

1.35. The Committee had desired to be furnished with a statement indicating the year-wise break up under various items for the period 1969-70 to 1973-74 of the amounts credited to Miscellaneous with particular reference to (a) fines and penalties collected from (i) foreign nationals and (ii) Indian Smugglers and (b) sale proceeds of confiscated goods. The Chairman, Central Board of Excise and Customs stated during evidence: "These figures have to be collected on an all-India basis. So far as Central Excise Collectors are concerned they are spread not only in major towns but also at minor ports and land customs stations. The miscellaneous head is largely made of the accruals of the net sale proceeds as well as imposition of fines and penalties. This collection on an all-India basis will take a little time."

1.36. The Committee asked whether the delay in collecting the information was due to confiscated goods being at a disposal of at unknown and unverified places. The Chairman of the Central Board of Excise and Customs stated:

"It is not true that they are sold at unknown and unverified places. They would be sold where jurisdictions have been defined. As regards the question of transporting these goods to any Central place for purposes of selling will be a big phenomenon and will cause other administrative difficulties. These sales proceeds from this contribute nearly Rs. 20 crores and if we start transporting these goods to major centres that will be a very big exercise and I wonder whether that will be a fruitful exercise. It is true there is no consolidation at the Centre as such. The field organisations should certainly have these figures and if there is any deficiency we will certainly rectify it. As advised by you we shall personally look into it and see if there is any lacunae."

1.37. Referring to fees and fines amounting to Rs. 6.18 lakhs shown in the Audit Report as realised during 1973-74, the Committee desired to know the amounts for the years 1969-70, 1970-71, 1971-72 and 1973-74. The Member (Tariff) stated:

"We find that this particular figure of Rs. 6.18.000 has been shown for the first time during 1973-74. We were also somewhat puzzled by this particular entry because this did not figure as a separate entry in the minor head. The major head is Customs. Under that head, upto 1973-74, we had only five major heads, viz. customs import duties, customs export duties, additional duties (i.e. those which are in the nature of countervailing duties) and cess on exports and miscellaneous items. Actually, the miscellaneous entry should cover all fines, fees, forfeitures and miscellaneous penalties. So, it was not clear why in the year 1973-74 this minor head has been shown. Whether this is a detailed figure given by the Accountant General or not, is not very clear to us. Actually, the fees, fines and penalties are included in the miscellaneous minor heads."

1.38. The Committee pointed out that the Ministry had not offered any comments on the correctness of this figure for 1973-74 when the draft audit paragraph was referred to them in January, 1975. The Ministry were therefore aware that the figures were being booked separately. The Committee asked why figures for earlier years were not available. The Member (Customs) stated:

"We received a note from the Committee asking for information as to the figures of fines, penalties and how far they

have been realized. As soon as we received it, we sent Telex message to all the Collectors, asking them to compile the figures and send them on to us. The note also wanted to know how much was pending as on 31st March, 1974. We have sent the message and replies have come from some Collectors. Others are still checking up or are collecting information from the field formations. I have requested for a few more days' time to get the information and put them together correctly, particularly because the figures received are not uniform. Some of the details received relate to the years of levy and some to the years during which they were collected. Recovery made during a year need not relate to the penalty imposed during that year. We want to put the information received in a proper shape before sending them on to the Committee."

1.39. In a written reply* furnished subsequently on 18th February, 1976, the Ministry of Finance (Department of Revenue and Insurance) stated:

"Attempts were made to collect the desired information from the various collectorates of Customs and Central Excise but it has been noticed from the reports received from them that separate figures of fines and penalties recovered from (i) foreign nationals and (ii) Indian smugglers were not maintained. In view of this, they had been requested to furnish separately the amounts of (a) fines and penalties, (b) sale proceeds of confiscated goods and (c) other receipts credited to minor head 'Miscellaneous'. A statement showing the figures of the above break up of amounts credited to minor head 'Miscellaneous', based on the *ad hoc* reports received from the Collectorates, is furnished herewith."

Break-up of amounts credited to minor head 'Miscellaneous'

(Rupees in lakhs)

Year	Fines and penalties	Sale proceeds of confiscated goods	Other receipts	Total (Gross)
1969-70	1,25	2,23	3,23	6,71
1970-71	1,60	2,28	8,18	12,66
1971-72	2,29	5,54	4,78	12,61
1972-73	2,72	4,78	7,53	15,03
1973-74	3,20	9,49	7,71	20,40

*Not vetted by Audit.

1.40. Under the head "Miscellaneous" several types of receipts are accounted for by the Customs Department. On the basis of ad hoc reports received from the Collectorates, the Ministry of Finance have furnished to the Committee a break-up of miscellaneous receipts separately for fines and penalties, sale proceeds of confiscated goods and other receipts. The Committee had desired to be furnished with separate figures of fines and penalties recovered from foreign nationals and Indian smugglers. It is learnt that attempts were made to collect the information from the various Collectorates of Customs and Central Excise, but it was found not possible to get the information as the figures were not separately maintained. The Committee are surprised that the Board took more than six months to collect only the figures showing the break-up of miscellaneous receipts from the various Collectorates, and even then complete information was not made available to the Committee. The Committee suggest that the statistical organisation of the Board should maintain figures of the various items included in the miscellaneous receipts. For this purpose necessary reports may be called for from the Collectorates. In respect of fines and penalties separate figures should be maintained in respect of recoveries from foreign nationals and Indians, so that these figures could give an idea about the implication of the foreign nationals in economic crimes.

1.41. In the Audit Paragraph, receipts from fees, fines, forfeiture and miscellaneous penalties have been shown as Rs. 6,18,644. But according to the break-up of miscellaneous receipts now furnished by the Ministry of Finance, fines and penalties amounting to Rs. 320 lakhs were collected during the year 1973-74. It is not clear to the Committee why at the time of verification of the Audit Paragraph, the Ministry of Finance did not offer the comment on the figure of 6,18,644 shown as receipt from fees, fines, forfeiture and miscellaneous penalties. The Committee desire that even at this late stage it should be possible for the Ministry of Finance to reconcile the figures.

1.42. Incidentally, the Committee find that according to the information furnished to them on 18th August, 1975, the net realisation under miscellaneous receipts was Rs. 4.43 lakhs during 1969-70, Rs. 10.91 lakhs during 1970-71 and Rs. 11.50 lakhs in 1971-72 but according to the information subsequently furnished on 18th February, 1976 the total miscellaneous receipts (Gross) amounted to Rs. 671 lakhs in 1969-70, Rs. 1206 lakhs in 1970-71, Rs. 1261 lakhs in 1971-72. The Committee would like to know the reasons for such marked variation in the figures.

Refunds and Drawbacks

1.43. The Committee desired to know the reasons for increase in the amount of refunds and drawback from Rs. 40.85 crores in 1972-73 to Rs. 63.84 crores in 1973-74. The representative of the Central Board of Excise and Customs stated:

"In 1973-74, there was a very peculiar situation. Of this, an adjustment for Rs. 23 crores has to be made. This Rs. 63 crores includes certain amounts which were wrongly credited as duty levied for three years in succession and for which an adjustment had been made in the year 1973-74. We have examined the position and we have also sent a communication to the CAG pointing out that this figure of Rs. 63 crores included about Rs. 24 crores which was an adjustment of certain amounts double-accounted in the previous years."

1.44. The Committee desired to be furnished with a note indicating how misclassification had taken place and why it had not been detected by the Chief Accounts Officer for a long time particularly during the reconciliation of accounts. In a written reply, the Minister of Finance (Department of Revenue and Insurance) stated:

"Misclassification had occurred because of change in procedure. Prior to 9th February, 1971, amount of duty and other charges collected in cash or by cheques at the Santa Cruz Air Port each day was sent to the Cash Department of the Custom House on the following day. These collections were treated by the Customs House as the Custom House Treasury Collections and remitted to the R.B.I. along with their own collection. At the end of the month, the Custom House would include the total amount so remitted to the R.B.I. in their monthly cash account statement to be sent to the Accountant General's office. This procedure was amended on 9th February, 1971 according to which the duty and other collections made at the airport, instead of being sent to the Custom House, are remitted by the Airport authorities direct to the Vile Parle branch of the State Bank of India which is close to the Airport for deposit with the R.B.I. The cash payments received by the Custom House Treasury are separately deposited by the Custom House with the Reserve Bank of India. The procedure was revised to obviate transport and other difficulties experienced by the airport customs authorities, in transferring the money from the airport to the custom house which is at

a considerable distance. The revised procedure did not specifically indicate the proper account head to be indicated in the Challan for remitting the amount collected at the airport to the Ville Parle branch of the State Bank of India. This revised procedure perhaps led to the collections made at the airport being wrongly classified by the airport authorities in the Challan as revenue receipts under the head "I Customs" instead of being classified as Customs remittances with the result that these amounts were also included by the Custom House in their monthly cash account statement to the Accountant General as remittances to the Reserve Bank. They were also accounted for as such by the Accountant General's Office. This resulted in these amounts being credited twice in the Accountant General's office under the head "I-Customs". This error was discovered by the Accountant General's office in February, 1974 and that office made the necessary adjustment in the account for 1973-74 with the concurrence of the Collector of Customs, Bombay."

1.45. During evidence, the Committee pointed out that the Ministry did not mention about this misclassification in their reply dated 27th February, 1975 to the C. & A.G. commenting on the draft Audit Para. The Member (Tariff) stated:

"The Audit Para was received some time towards the end of January, 1975. After scrutiny we sent a reply, signed by the Director of Tax Research. That was dated 27th February, 1975. Immediately following that, on 3rd March, 1975 we addressed a circular letter to all the Collectors of Customs, Central Excise and others concerned."

1.46. It was stated in the Board's letter dated 3rd March, 1975:

"It is also noticed that the payments of Refunds and drawback during 1973-74, as reported in the departmental returns, may please be reconciled with the Accounts figures and the correct position furnished to the Director, Statistics and Intelligence, Central Excise and Customs, New Delhi, for compilation and report to the Board. Further, the exact reasons in detail for the increase in payments of Refunds and Drawback during 1973-74 (Rs. 63.84 crores) over those of the previous year (Rs. 40.85 crores) may please be communicated urgently".

1.47. When it was pointed out that even a copy of this letter was not sent to the C. & A. G., the Member (Tariff) agreed "If we had indicated in our reply that we were taking action, possibly, they would have simultaneously taken up rectification action."

1.48. To a question as to when the mistake came to the notice of the Board, the Ministry stated in their written* reply:

"This mistake came to the notice of the Board in June, 1975 when the Director of Statistics, Central Excise and Customs, New Delhi, wrote to the Board *vide* his letter dated the 20th June, 1975. An officer was deputed by the Board in July, 1975 for a detailed study in the matter. Instructions were issued on 18th September, 1975 prescribing a procedure for reconciliation of accounts figures with the departmental figures."

1.49. In the report submitted to the Board by the Officer deputed by the Board for an on-the-spot enquiry, it was stated:

"The discussion with the Bombay Custom House officials also revealed that at present there is no effective procedure in the Custom House for reconciliation of the departmental figures with the accounts figures. The existing practice is that a UDC from the Statistical Department of the Custom House visits the AG's office every month and collects the monthly accounts figures from the AG's office. At the end of the financial year, the total of these monthly figures is tallied with the yearly accounts figures and any such variation is almost taken for granted because of the timelag in the book adjustment of duty on Government stores in the AG's office. If a serious attempt had been made at the end of 1970-71 when a double credit was given to the extent of 22.82 crores in the AG's office, to reconcile the departmental figures with the accounts figures, the error would have been detected at that time."

1.50. The Committee pointed out that if the reconciliation is required to be done every month, how the mistake was not detected. The Finance Secretary stated:

"...the position was unsatisfactory—and we would certainly like to straighten things out. Reconciliation involves reconciliation from both sides, and we will certainly do our best to see that a higher level examination comes in. We will pay attention to this aspect."

*Not vetted by Audit.

1.51. The Member of the Board stated: "The UDC is sent to bring the figures from the AG's office. The responsibility for reconciliation is that of the Chief Accounts Officer." Asked whether the Internal Audit was required to help reconciliation, the witness replied, "The Internal Audit does not come into the picture regarding reconciliation of monthly accounts." The witness added:

"In so far as the Chief Accounts Officer is concerned, his organization is supposed to be a tightly controlled and competent organization and they are supposed to see that no excessive payments are made and that payments are received as indicated by the executive officer. To the extent I know, I do not think, there is that detailed checking of this reconciliation being done by the Chief Accounts Officer."

The Chairman of the Board stated:

"These Custom Houses have been functioning for many years and the functions of the audit and accounts are combined in them. The internal audit as such is not called upon to do that. We will go into the entire matter in consultation with the Comptroller and Auditor General and then see, what further improvements are necessary and submit a detailed note."

1.52. The Committee desired to be furnished with a note stating the improvements that would be necessary in the functioning of organisation of the Chief Accounts Officer and Internal Audit to make reconciliation of accounts more effective. In a written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

"The instructions of 18-9-1975 are comprehensive. It envisages a monthly reconciliation of revenue receipt figures with the Account figures. It also envisaged strict compliance of the instructions contained in the compilation of General Financial Rules, Chapter III—Revenue and Receipts I—General. The instructions also seek to ensure that reconciliation is done to the extent possible and attempts made to identify the reason for the variations between the accounts and Departmental figures, if any. Important points should invariably be reported to the Board promptly. In view of this, it is hoped that there is effective reconciliation in future."

*Not vetted by Audit.

1.53. Referring to the mistake not being detected for a number of years, the Chairman of the Board stated:

“From the figure it looks a very big amount. Out of that, one entry amounting to Rs. 22.82 crores, as mentioned by the Accountant-General in his letter, represents the customs duty on gold imported from the United States in connection with the payment of subscription to IMF. Therefore, whatever mischief or misclassification has been done over a period of about two years is about Rs. 2 crores.”

1.54. The Committee drew attention to paragraph 1.5 of their 80th Report (1972-73) wherein one of the reasons for variation of 12 per cent between budget estimates and actual of customs receipts during the 1970-71 was stated as 100 per cent duty levied on unforeseen import of gold worth Rs. 22 crores. The Committee asked why at that time double credit of duty could not be detected. The Chairman of the Board stated:

“If this error had been detected then, this 12 per cent would have come down very much. Gold worth 22 crores had been imported for which the duty was 22 crores. The question of mis-classification was not known to anybody at that stage.

1.55. In his letter dated 5th February, 1974 to the Collector of Customs, Bombay, the Accountant General (Central) had however stated:

“Our investigation shows that the revenue collected at the Air Port was credited to the Reserve Bank of India under the head “1 Customs—State Bank of India” as Revenue Receipts. In the list of payments of your Custom House Treasury these amounts were shown as “U—Remittances (1) Customs Remittance and accounted for as such by my office. This has resulted in revenue being inflated by double credit to the same head resulting in inflation by 27.48 crores of rupees as were detailed below:—

	Rs.
(1) Pertaining to 1970-71	22,82,48,111.53
(2) „ „ 1972-73	1,97,26,295.14
(3) „ „ 1973-74	2,68,34,393.90
Total	<u>27,48,18,800.57</u>

We have now made the necessary adjustments in the accounts for 1973-74 as a result of which the revenue this year will be reduced by Rs. 24.79 crores."

1.56. The Committee find that on account of mis-classification, refunds and drawbacks for the year 1973-74 were inflated to the extent of Rs. 24.79 crores as a result of an adjustment made to rectify the double credit to the extent of this amount of revenue collected during the years 1970-71 and 1972-73. The actual position is that the net customs revenue realised during the year 1970-71 should have been shown less by Rs. 22.82 crores and for 1972-73 by Rs. 1.97 crores and the net revenue collection for 1973-74 should be higher to the extent of Rs. 24.79 crores. The Committee take a very serious view of the incorrect position in this regard reported to Parliament during these years. Such inadvertence amounts to a grave dereliction of duty on the part of responsible personnel.

1.57. The double credit of the amounts occurred because of mis-classification of an amount of Rs. 22.82 crores representing the Customs duty on gold imported in 1970-71 from USA in connection with payment of subscription to International Monetary Fund and customs dues collected at the Bombay Airport amounting to Rs. 1.97 crores during 1972-73. The Committee note that customs dues received at the Bombay Airport were misclassified by the Airport Customs after a revised procedure was adopted in February, 1971 according to which the duty and other collections made at the Airport instead of being sent to the Custom House are remitted direct to the State Bank of India. It is regrettable that the revised procedure did not specifically indicate the proper account head to be indicated in the challan for remitting the amount collected at the airport. This led to collections being wrongly classified as revenue receipts under the head "I—Customs" instead of Customs Remittances with the result that these amounts were also included by Custom House in their monthly cash account statement to the Accountant General as remittances to the Reserve Bank. The Committee are unhappy that such misclassification continued unchecked till February, 1974.

1.58. The double credit of the amounts in the accounts could have been detected during the respective financial years if the Bombay Custom House had followed the proper system for reconciliation of the departmental figures with the accounts figures. The mistake remained undetected till February, 1974 when it came to the notice of the Accountant General (Central), Bombay, who made an adjustment in the accounts for 1973-74. Only after the Committee took up examination of the matter did the Central Board of Excise and

Customs issue instructions on 18th September, 1975, requiring monthly reconciliation of revenue receipt figures with accounts figures. The Committee deprecate this delay and urge the Board to keep a close watch over the action taken by the Custom Houses on these instructions and ensure that the necessary reconciliation is done scrupulously every month.

1.59. Another unsatisfactory feature of this case is that when the draft Audit Paragraph was sent to the Ministry of Finance for confirmation, the Ministry in their reply did not comment at all on this inflated figure of refunds and drawback for the year 1973-74. However, the Central Board of Excise and Customs later asked the Custom Houses to go into the reasons for the increase in the figure of refunds and draw-backs for the year 1973-74. Unfortunately, a copy of this letter was not sent at the same time to Audit who could not, therefore, add a suitable footnote to the relevant Audit Paragraph. The Committee suggest that in future, where the figures appearing in the draft Audit Paragraph appear to be doubtful and need verification, the Board should immediately inform Audit about the position.

CHAPTER II

NON-LEVY/SHORT-LEVY OF ADDITIONAL DUTY

Audit Para

Imported goods attract levy of additional duty under Section 2A of the Indian Tariff Act, 1934. The duty is leviable at rates equal to the excise duty for the time being leviable on like goods if produced or manufactured in India.

In a major Custom House "immersion coolers" imported in February, 1967 and "milk receiving and cooling units" imported in April, 1967 charged to Custom duty under item 72 (9) of Indian Customs Tariff were not subjected to countervailing duty. In July, 1967 Audit called for full details, catalogue etc. and pointed out that the goods would *prima-facie*, be liable to countervailing duty at 40 per cent *ad valorem* under item 29A of Central Excise Tariff. The catalogue was furnished only in February, 1971 on verification of which Audit reiterated that countervailing duty was leviable under item 29A (I) of Central Excise Tariff, as the goods in question were used in refrigerating and air-conditioning units and the milk receiving and cooling units formed part of refrigerating appliances used in chilling plants.

2.3. On receipt of the audit objection the Custom House raised a demand of Rs. 4,24,268 covering three bills of entry pointed out by Audit and two bills of entry found out on further review by Custom House of similar cases. The demands, however, were not immediately enforced and the matter was referred to the Collectors' Conference which decided in January, 1974 in favour of the view taken by Audit. The recovery of the demand has not been effected so far.

[Para 4(i) of the Report of C & AG for 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes].

2.4. The Committee desired to know how the mistake in this case took place. The Finance Secretary stated:

"There seems to have been a bonafide doubt in the mind of the Customs administration at that particular point of time.

The whole question arose because of the wording used in the Central Excise Tariff. The wording used is as follows:

Refrigerators and other refrigerating appliances, which are ordinarily sold or offered for sale as ready assembled units, such as ice-makers, bottle coolers, display cabinets and water coolers

Then it goes on to add:

Air conditioners and other air-conditioning appliances which are ordinarily sold or offered for sale as ready assembled units including....

The third item is:

Part of refrigerating machinery.

Kindly compare this description in the tariff item with the description in the Customs Act where the notification which has been issued of the description is as follows:—

The following dairy and poultry farming appliances namely cream separators, milk sterilising and pasteurising plant, milk aerating and cooling apparatus....

Also component parts of these appliances provided they fitted into the proper appliances....

The particular apparatus or instruments that were being imported at that point of time were things like immersion coolers which were meant to be put into a vessel to cool the milk. At least that is one type. To that extent, it is not complete in itself. There seems to have been some doubt in the minds of the local authorities. Therefore, I was merely emphasising the extenuating factors that there might be some cause for doubt particularly if one reads the description under the customs item as compared to the description under the Central Excise Act, where the countervailing duty is involved."

2.5. The Committee desired to know the reasons for delay in taking action after the mistake was pointed out by Audit, the Finance Secretary stated:

"As soon as the matter came to our notice, demands were issued. So it cannot be said as yet that there has been any loss of revenue because demands were issued way back in 1967. Since there are two public sector undertakings involved, I do not think we can conclude that the money has been lost."

The Member (Customs) stated :

"I tried to look into the question of delay in some detail. I must at the very outset say that there are some large gaps in the action taken. We feel very sorry that there have been such gaps. I have asked the Collectorate to proceed against the officers concerned in delaying the matter."

2.6. Asked when the matter came to the notice of the Board, the Member (Tariff) stated :

"In this particular case, the matter was referred by the Collectorate for consideration at the Tariff Conference of Collectors in January, 1974. We received the reference on 7th November, 1973."

2.7. The Committee asked how delay of six years took place in referring the matter to the Conference of Collectors and the Board. The Chairman of the Board stated :

"Going through the note prepared of the action taken, there is a very peculiar light thrown on what exactly was the course of events. As early as 27-12-67—this is on record a brief for discussion in the Collectors' conference was prepared by the Custom House. Now by some peculiar coincidence, this file got delinked and linked up with some other papers and there it lay unnoticed. This is something which should never have happened. The local administration should have had adequate control. All that I can say on the general issue is that whereas we deeply apologise for it, I do not think this is a sampling of what usually happens in Customs and subordinate formations. But sometimes it does happen. It is regrettable whenever it happens. In this case, it is really regrettable because the file got delinked and then got linked up with other papers resulting in this delay. Ultimately, when audit requested for the papers, they were supplied to them. I believe, in early 1971."

2.8. Asked why the demands were not enforced immediately, the Chairman of the Board stated:

"I would explain the machinery for this. Action on the side of revenue means issuing a demand on the party in time. Collection may be deferred till the final decision is taken, but revenue has been secured, demand having issued within time so that it does not become time-barred and get lost. That way action was taken."

2.9. Asked about the position of realisation of the demands, the Member (Customs) stated :

“Two State Governments are involved in this. One is the Tamil Nadu Government where the demand is for Rs. 4 1/2 lakhs. The other is the Andhra Pradesh Government where the demand is of a smaller amount. The Tamil Nadu Government have agreed to pay and the money is likely to be collected before the end of this month. About Andhra Pradesh, the Collector is in touch with the Chief Secretary of Andhra Pradesh Government and he expects that the money will be collected very shortly.”

2.10. The Committee desired to know at what level in Internal Audit, the Bill of Entry relating to this import was examined and what observation was made by them. In a written reply*, the Ministry of Finance (Department of Revenue and Insurance) stated:

“The Collector of Customs, Madras who was requested to furnish the information has reported as under:—

- (1) The bills of entry were audited at the level of Upper Division Clerk in Internal Audit.
- (2) No observation was made at the time of audit of the bills of entry. While dealing with the CRAD objection the internal audit held that the appliances falling under item 29A(1) of CET were of storage types with built-in-cabinets for storing the goods which were to be cooled. According to the catalogue produced, the milk coolers in question were not of storage type and hence not covered by item No. 29A of the CET”.

2.11. The Committee desired to know the specific action taken on the recommendation made in their 89th Report (5th Lok Sabha) [para 6.1(5)] that Internal Audit Department should be placed under a separate Director independent of the Collectors of Customs. The Chairman of the Board stated:

“This question has been raised once again, only recently at a meeting of the full board, with a view to finalising things. The papers are under submission to the Finance Minister. If you want to know the tentative thinking, I can tell you. We genuinely, objectively and sincerely feel that internal audit is the eyes and ears of the head of the department. According to us, in an organisation like the Customs where

*Not vetted by Audit.

so much revenue is involved, if you do not leave the direct control with the Collector of Customs, it will have all of consequences. At the same time, it is equally true that there must be a Central Director of Audit who should co-ordinate the activities of the Audit i.e. between Audit and the Customs and see whether there are any deficiencies and keep a direct eye on things. So, it is a combination of coordination and the idea of keeping the pattern of internal audit in tact—the latter should be so, by the very nature of internal audit. If you take it away from them, it might divest the local heads of departments of a certain amount of responsibility.”

2.12. In a written reply*, the Ministry of Finance (Department of Revenue & Insurance) stated:

“The recommendations of the Public Accounts Committee in their 898th Report (5th Lok Sabha) were briefly

- (i) to have a separate Director Internal Audit (for customs) their 98th Report (5th Lok Sabha) were briefly
- (ii) to examine whether the staff working in the Internal Audit should not be formed into a separate cadre with adequate career prospects within the Internal Audit Department so that the members working therein may really feel free to report on the mistakes found in the documents of the Custom Houses.

These two recommendations were examined in great depth by the Central Board of Excise & Customs in consultation with the Director of Inspection and Collectors. There was general unanimity that the Collectors should not be deprived of the services of the Internal Audit for exercising their supervisory functions as they were primarily responsible for the efficient running of the Custom Houses and taking away the Internal Audit Department, which was the eyes and ears of the Collectors, from their control would weaken their supervisory control considerably. It is through the Internal Audit that the Collector can keep an eye on the functioning of the various Departments responsible for revenue collection, refunds, etc. The Ministry, therefore, felt that the present arrangement of having an Internal Audit organisation under the control of the respective Collectors of Customs should be continued with some modification. A central coordinating organisation

*Not vetted by Audit.

should be set up at headquarters (New Delhi) to oversee the working of the Internal Audit organisations of the various Custom Houses. This organisation should be headed by a Director of Audit who will form part of the Directorate of Inspection and Audit (Customs). The Director of Audit will be responsible for watching the overall performance of the Internal Audit organisations in Custom Houses, for examining the staffing position of the audit parties and generally for giving suitable directions to Collectors. This organisation would also advise the Collectors in regard to the points to be audited and also assist the Board in seeing that the Internal Audit maintains a high tempo.

As regards the recommendation of the Public Accounts Committee to consider the feasibility of having a separate cadre for auditors, it was felt that this was not possible for several reasons. Firstly, this cadre will be very small and auditors may not have reasonable chances of promotion. Secondly, they will not have any field experience and will be handicapped in their work. To get the best results the auditors should be knowledgeable in the work they are auditing and for this purpose there should be periodical exchange of staff between the executive and the audit branches. Finally, even under the present set up the staff working in the Internal Audit Department is not subordinate to any executive officer in the Custom House excepting the Collector and Deputy Collector (A.C. (Audit)). The possibility of the staff being transferred to Departments under the DC's/AC's in the Appraising Department should not deter them, while in Audit, from performing their duties without fear or favour.

The proposals in brief are:

- (i) to set up a Directorate of Audit as part of a combined Directorate of Inspection and Audit for the Customs Department to be stationed in Delhi; and
- (ii) to continue the present arrangement of keeping the Internal Audit Department of the Customs under the control of the respective Collectors of Customs.

These proposals have been approved in principle by the Finance Minister. Details of staffing, etc. are being worked out and the Directorate of Audit as envisaged above will be set up in due course."

2.13. Referring to anomalies in the levy of additional duties, the Committee asked whether it was not possible to establish a machinery by which a uniform practice was followed by the Collectors. The Chairman of the Board stated:

“This sort of exercise is constantly done and so long as the Customs Department continues to exist it will be a continuous exercise. In the customs administration whenever any new issue arises and after it gets settled, intimations are issued to all Collectors which are binding on them. But in the realm of import it is not always the same product which comes. Sometimes a different product comes or in the mean time a new central excise levy has been introduced. Even at the international level the Customs Cooperation Council are meeting every year. In this conference they decide what should be the proper nomenclature, where a particular item falls. Disputes take place even at the international forum and they continually resolve them by meeting every year.”

2.14. The Committee are surprised that in this case the Custom House did not levy countervailing duty on “immersion coolers” and “milk receiving and cooling units” on the ground that these units being not of storage type were not covered by Tariff item 29A of the Central Excise Tariff, and secondly, that these were not imported as ready assembled units. These grounds cannot be sustained since the description of item 29-A covers all sorts of refrigerators and air-conditioning machinery. Besides, while it may be that for assessment, the units should be ordinarily such as can be offered for sale as ready assembled units, it does not necessarily follow that it should always be transported in the assembled condition. The Committee are of the view that there was hardly any scope for doubt in levying countervailing duty.

2.15. A more serious aspect of this case is the inordinate delay of seven years in taking the final decision after Audit had raised its objection and called for relevant details, catalogue etc. in July 1967. Such information was furnished only in February, 1971, and Audit reiterated that countervailing duty under item 29A(1) of the Central Excise Tariff was leviable. However, it was only after long delay in January 1974, that the Conference of Collectors finally decided in favour of the view taken by Audit. The Committee cannot accept the explanation given for this unconscionable delay, namely, that the file had been misplaced in the Custom House. The Committee were, however, informed that the Collectorate has been asked to proceed against the officers responsible for delaying the matter. It

is extraordinary, indeed, that it took 4 years to get the papers forwarded to Audit and 7 years to have the matter placed before the Collectors' Conference. Such default does appear to be egregious and the Committee would gravely urge fixation of responsibility in the matter and immediate intimation of action taken on this issue.

2.16. The Committee are anxious that at the time of Audit, all supporting documents should be made available alongwith the Bills of entry. The Committee desire that necessary instructions in this regard should be issued by the Central Board of Excise and Customs.

2.17. The Committee also suggest that guidelines should be laid down by the Board regarding the type of cases which should be referred to the Collectors' Conference so that the multiplicity of references, not always warranted, cannot be an excuse for Collectors avoiding the responsibility of taking prompt and principled decision.

2.18. In this case, Internal Audit had not made any observation at the time of audit of the bills of entry. Subsequently, while dealing with the objection raised by the Customs Revenue Audit Department, Internal Audit expressed the view similar to that held by the Collectorate that the milk coolers in question were not of storage type and therefore not covered by item 29A of the Central Excise Tariff. In their 89th Report (5th Lok Sabha) the Committee (1972-73) had recommended that the Internal Audit Department should be placed under a separate Director directly under the Board so that it could be free from local influence and perform its functions without fear or favour. On this point only an interim reply was sent to the Committee (1973-74) when they presented the Action Taken Report. However, in a reply now furnished to the Committee, the Ministry of Finance have intimated that it was proposed to set up a Directorate of Audit, as a part of a combined Directorate of Inspection and Audit for the Customs Department to be stationed in Delhi, and as far as the field organisation was concerned, to continue the present arrangement of keeping the Internal Audit Department of the Customs under the control of the respective Collectors of Customs. These proposals, it is learnt, have been approved in principle by the Minister of Finance. The Central Board of Excise and Customs appear to feel that Collectors should not be deprived of the services of Internal Audit for exercising their supervisory functions. Internal Audit is felt, as it were, to be the eyes and ears of the Collector and to take away this vital instrument from his control would weaken his functioning considerably. The Directorate of Audit would, in that case, be responsible for watching the over-all performance of the Internal Audit organisation in the Custom Houses, for examining the staffing position of the audit

parties, and generally, for giving suitable directions to the Collectors. The Committee, however, feel that while Government have done well in intending to set up a Directorate of Audit, a further step should have been taken in the direction of the independence of Audit for which the Committee have pleaded earlier. The Committee thus would reiterate their earlier recommendation that in order to keep the Internal Audit free from all possibility of narrow, local influence and perform its functions truly independently, it should be directly placed under the Director of Audit.

2.19. The Committee had also suggested in their 89th Report (5th Lok Sabha) that it should be examined whether the staff working in the Internal Audit Department should not be formed into a separate cadre with adequate career prospects with the Internal Audit Department so that the members working there may really feel free to report on the mistakes found in the documents of the Custom House. It has been stated by the Ministry in their reply that it is not possible to set up a separate cadre for auditors for the reasons that firstly the cadre would be very small and auditors may not have reasonable chances of promotion and secondly auditors will not have any field experience and will be handicapped in their work.

2.20. The Committee feel that these difficulties are not insurmountable. The Committee had recommended the pattern followed by the Railways for the internal check of their transactions to be adopted for the Customs Department. The Committee suggest that this pattern should be carefully studied with a view to adopting it on the customs side.

CHAPTER III

DELAY IN ADJUDICATION AND DISPOSAL OF SEIZED GOODS

Audit Paragraph

3.1. (i) A test check conducted in July, 1974 in a major Custom House relating to disposal of seized goods other than gold, in respect of the years 1968 to 1971 disclosed the following position:—

(a) The progress in the adjudication of these cases was as under:—

Year	Total No. of Cases of Seizure	Cases not adjudicated		Cases adjudicated but disposal orders not passed	
		No.	Value Rs.	No.	Value Rs.
1968	862	26	9,424	44	11,447
1969	811	46	9,112	45	12,860
1970	805	51	35,792	40	25,647
1971	984	55	58,925	57	90,730

3.2. These figures do not include the value of 111 items (11, 37, 39 and 24 for the four years respectively) as their value was not shown in the Master Register.

(b) The value of seized goods awaiting disposal amounted to Rs. 5,91,229. These included sensitive goods under the following categories:—

Category of goods	No. of cases				Total Value Rs.
	1968	1969	1970	1971	
Liquor, Cigarettes etc.	66	60	56	56	59,610
Foreign textile etc.	31	29	40	71	1,87,579
Radiant yarn	26	19	4	5	12,096
Electrical goods	33	33	43	63	48,671

3.3. There were 33,17,5 and 29 items under the above four categories respectively whose value was not on record.

- (c) The stock taking reports (August, 1974) revealed that in a number of cases goods were not physically present in the shed and the Master Register did not also bear any indication of the sale of proceeds thereof having been deposited to Government account. The number of cases and value of such goods totalled 493 and Rs. 99,257 respectively.

3.4. The Ministry have stated in March, 1975 that as on 1st February, 1975 there are 314 cases for the said 4 years which have not been adjudicated or in which disposal orders have not been passed. The total value of goods in these cases is Rs. 2,28,586 excluding the value of 37 items which is not shown in the Master Register because inventory and valuation are yet to be made in these case in respect of seizure made in the past. As per report dated 4th February, 1975 received by the Ministry from the Collector of Customs, the value of seized goods awaiting disposal amounts to Rs. 1,35,958 including Rs. 1,12,191 in respect of goods in the four specified categories. The Ministry have stated that in many of these cases and the pendency shown in the statement should not be there as they have been mostly disposed of but not yet, suitably indicated as such in the 'Master Register'. As for the stock taking reports, the Ministry have replied that the Collector of Customs has stated that suitable entries are being made in the Master Register.

[Paragraph 12(i) of the Report of C&AG for 1973-74, Union Government (Civil) Indirect Taxes]

Delay in Adjudication of cases relating to seizure of gold

3.5. A mention has been made in para 11 of the Report of the Comptroller and Auditor General of India for 1973-74, Revenue Receipts, Vol. I that during the period from January, 1970 to June 1974, there were 134 cases of seizure of contraband gold involving a total value of Rs. 14,74,70,361 excluding the value of 247 bars of gold of 10 tolas and seized in March and October, 1973 which is not known. But of these 134 cases, 81 cases had been adjudicated. Of the rest in 19 cases adjudication proceedings were still pending and in 34

cases details of adjudication were not yet known. The year-wise breakup of these 19 and 34 cases was as follows:—

Period	adjudication Pending	adjudication details not known
January 1970 to March, 1970	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

Penalties were levied in 54 cases ranging from Rs. 200 to Rs. 1000 in 6 cases, Rs. 1000 to Rs. 10,000 in 25 cases, Rs. 10,000 to Rs. 50,000 in 19 cases and Rs. 50,000 to Rs. 100,000 in 4 cases.

3.6. 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. 1000 in 6 cases, Rs. 1000 to Rs. 10,000 in 19 cases and Rs. 10,000 to Rs. 70,000 in 5 cases.

3.7. The Committee desired to know the position of adjudication in 134 cases referred to in the audit Paragraph. The Member (Customs) stated:

“The number of cases is 133 and not 134 because one case repeated itself. 26 cases are still pending adjudication. All other cases have been adjudicated. Prosecutions have also been launched in most of the cases. Where the goods are not claimed, there we cannot launch prosecution. In one case on account of insufficient evidence, prosecution was not issued. About another case, I cannot locate from the file whether the prosecution has been launched. There are 12 cases in which prosecution is being contemplated.”

3.8. Asked in how many case prosecution had been launched, the witness replies: “72 cases”. He added: “Goods were unclaimed in 20 cases. So, there was no person to prosecute. There is only one

case where due to lack of evidence we could not prosecute. 26 cases are pending because of adjudication."

3.9. The Committee desired to know (i) how many of these 72 cases prosecutions relate to those known to be involved in gold smuggling and (ii) why prosecution proceedings were not initiated in the remaining 61 cases and (iii) in how many cases convictions had been obtained. In a written reply, the Ministry of Finance (Department of Revenue and Insurance) stated:—

"Several of the persons prosecuted are on the intelligence records of the Department. The prosecutions are however, launched with reference to the facts of the case detected. In 61 cases where prosecution is not yet launched, in 20 cases the gold was unclaimed. In 26 cases the adjudication proceedings were pending and in one case the appeal was pending before the Board. Normally prosecution is launched after the departmental proceedings are over. In 12 cases the case files were then being examined with a view to launching prosecution: In one case the evidence was found to be insufficient and in another case the value of the gold seized was found to be too small (Rs. 2000). Out of 72 cases wherein prosecution was launched in 30 cases conviction was obtained and the rest were pending in various courts."

3.10. Asked if any change in law was necessary to reduce delay in disposal of seizure cases, the Member (Customs) stated:—

"From the executive side, we ourselves have felt that it would be much better if we had some system by which we need not give them so much of an opportunity."

3.11. Asked if the matter had been taken up for examination, the witness stated:—

"The position is somewhat like this. If we do not give the full opportunity, then there will be violation of the principle of natural justice. On that, they would go in writ under article 226 of the Constitution. Therefore, we are considering the question whether we should take out the writ jurisdiction in some of these cases."

3.12. The Finance Secretary stated:

"Here, we would like to have the support of the Committee to help us. I would respectfully submit that merely changing the law by itself will not be adequate. The machinery has also to be strengthened. Except in places where there

are separate collectorates of Customs, as for example in Bombay, Calcutta and Madras, the Central Excise Department is also responsible for other provisions. I am afraid, the entire Customs and Central Excise organisations are over-extended. There is a lot of money to be collected. In fact, the Central Excises are of the order of Rs. 3500 crores. Various factories have to be supervised. There is also the question of preventing smuggling. Perhaps, some of the delay in adjudication proceedings arises out of the fact that senior officers are not able to devote as much time and attention as they would like to do because they have got a lot of other work also. Therefore, if this aspect could be looked into, it might help my colleagues on the Expenditure side to sanction these posts."

3.13. Asked whether a time-limit had been fixed for the disposal of cases, the Chairman of the Board stated: "There is a time-limit for issue of show cause notice. For adjudication there is no time-limit."

The witness added:

"If time-limit is statutorily imposed on the completion of adjudication, it may result in all types of things. Where the investigations are really complicated, it does take a lot of time. Then there are various tactics which are adopted by the clients and their lawyers. One result would be that if things are not making headway, one way or the other officers would dispose of the cases and would confiscate the goods to be on the safe side. My apprehension is that this may not entirely result in a process which would flow from objective assessment and adjudication. It may somewhat detract from that. I would certainly endorse that amongst ourselves, departmentally, we must indicate that except for really complicated cases, the cases must be finalised and adjudicated within a reasonable time."

3.14. Asked about the time given in the show cause notice, the Chairman, of the Board stated two weeks were given but the parties asked for extension also. Asked whether it was not necessary to make suitable provisions in the law to guard against dilatory tactics adopted by the parties, the witness stated:—

"Some of the cases are not complicated, but merely by going through the list, we would not be able to know the complexity of the case. Where you wish to confiscate the gold, there is no contest. The contest comes, where whether the person involved is in the act of smuggling or not has

to be decided. Where the man seems to be a part of the ring, and we are ourselves interested in finding that out not from the point of view of confiscation, but imposition of personal penalties or prosecution of the persons, concerned, or if it is a conspiracy case, the investigation has to go on over a period of time. If you have a time limit I do not know, whether it will work to our advantage."

3.15. The witness expressed the view that "strict departmental enforcement should be there, so that they could deal with the case suitably."

The Finance Secretary added:—

"I think, it is the unanimous view at least on our side that there should be the minimum delay in adjudicating cases. but I would submit most respectfully that this is a matter which may not be susceptible of legislation and that legislative measures by themselves may not be the right answer."

"If a time limit were to be imposed, sometimes it may operate very harshly and in every case it may not be possible to do justice to the case as one would like to because the person adjudicating would be up against the time limit and in that process he may do it in a slipshod slap-dash manner. You might recall this committee was concerned with the BOAC case with all its complications. One can hardly think that a reasonable time limit in that case would be operative or in any comparable case. So, I would respectfully submit that this matter be best left to the administrative check and inspection and continuous supervision and guidance. Side by side, the Department itself has to be strengthened and given the necessary where-withal for discharging the functions with which it has been entrusted, in a speedy and efficient manner."

3.16. Asked what in his opinion would be a reasonable time-limit for finishing such cases, the Finance Secretary stated:—

"Any such directive would have to be hedged in with all sorts of exceptions and really the best way of doing it is for the people to go round and inspect the various customs Houses and find out if there has been delay or not."

3.17. Asked whether that procedure was not adopted earlier, the Finance Secretary replied: "Not on the scale we would like."

3.18. Asked to define hard cases, the Chairman of the Board stated: "Suppose the accused is really ill and something like that and he has not been able to put in his defence within the time limit, then the time limit would act as a hardship to him." The witness added:

"Here I must isolate outright smuggling cases from other types of cases, whose percentage also is not very small. I am talking particularly of the trade cases. But smuggling is entirely on a different footing. If we catch red-handed various types of goods, nobody is going to set up a defence that they are not smuggling. There the question arises as to who are the people involved and investigation starts there. But with regard to import and export of goods, through regular trade channels, it is not so much a question of what is the licence entry, what is the interpretation and what was the intention when that licence was issued. All these things become important and there at least it is the experience of all Collectors of Customs that in many cases they have arguable cases and in many others there are swindlers also."

3.19. Asked if the Department was acting ruthlessly in dealing with smugglers, the Chairman of the Board replied in the affirmative. The Committee then asked in what manner this idea was translated into practice. The Chairman of the Board stated: "Within the four walls of the law. But the latest interest we are showing is that when we do not have evidence but if we can club it with intelligence and other anti-national activities, we are putting them under preventive detention."

3.20. The Committee asked what action apart from what had been done recently, was taken to quicken the whole process of adjudication, the Chairman of the Board stated:—

"That is a very big question. There our jurisprudence plays some part. Then there is the question of natural justice, right or wrong and we are guided by those things."

The witness added:

"Our duties are sometimes quasi-judicial and when an officer is acting in his quasi-judicial capacity, he cannot get rid of that idea. In fact in Customs in many cases we have to function like revenue courts."

3.21. Asked whether in that case it was not correct to assume that there was law's delay even in case of smugglers, the witness replied:

"Here the question arises as to who books the original case. It cannot be an officer of a very high rank who is patrolling the areas. It is like the Police Department. For instance, an officer of the rank of the Preventive Officer or an Inspector of Central Excise makes the seizure. The entire Department is not there to go only by his judgement as to what is smuggling and what is not smuggling. Therefore, it has to come upto a level of the officer entitled to adjudicate that case and bring to bear upon the case some objectivity and then dispose it of. But I do admit that this process should be expedited."

3.22. The Committee asked whether the Board had any machinery to keep a watch over the disposal of adjudication cases. The Chairman of the Board stated:—

"If we get these adjudication reports day to day from all over the country, there will be so much material lying here. But statements in regard to the number of seizures and their value are kept by our Statistics Branch. For chasing purposes we have our Directorate of Inspection which undertakes periodical visits to the field. The Board Members also look into it when they go out. The local head of the department is required to keep track of these things.

3.23. The Committee asked why in case of seized gold prompt action was not taken to prosecute the persons. The Chairman of the Board stated:—

"If the gold seized is smuggled with foreign markings, there is not a single case where it is not confiscated. Also, if the man is available either as a carrier or otherwise, he is prosecuted and penalty imposed. Now, the work is in full swing and quite a lot of our officers are engaged in it. During the last one and a half years there has been tremendous activity in the anti-smuggling field. Over 100 writ petitions are pending before courts which also takes a lot of time of our officers. You have to view this statement in that background. Of course, when the gold has foreign markings, it is immediately confiscated and penalty is imposed if the man is caught."

3.24. Asked if confiscation is not automatic in case of gold with foreign markings, the witness replied: "Before confiscation is re-

sorted to, the Act requires that a show cause notice has got to be issued and the party's reply has to be awaited."

3.25. Asked whether this was not a lacuna in the law, the Chairman of the Board stated:—

"This is ordinary jurisprudence that anybody whom you are charging should be given an opportunity to explain. You tell him that you have seized gold from him. He in defence may say that it was not on him, that it was actually that of somebody else and for that he will produce evidence and that he sees that he is personally involved."

3.26. Explaining the reasons for delay in the disposal of cases, the witness stated: "We have to follow the usual procedure of issuing show cause notice etc. and then have adjudication. There are delays. I do not deny that."

3.27. Referring to the delay in finalisation of cases by courts, the Finance Secretary stated:

"The laws delays have been proverbial. It is primarily for this reason that we have been taking up the matter with the Home Ministry, and it is proposed to set up special courts in order to try these particular offences. We shall try and see that it is expedited. Considerable progress has already been made, and a decision has been taken in principle to set up special courts."

Delay in adjudication of cases of seizure of Goods (other than gold).

3.28. According to the audit para during the years 1968 to 1971 out of the total number of cases of seizures, 178 cases had not been adjudicated and 186 had been adjudicated but disposal orders had not been passed.

The Committee desired to know the latest position of 364 cases referred to in the Audit Paragraph, which had not been adjudicated or in which disposal orders had not been passed. The Member (Customs) gave the following information during evidence:—

Year	No. of cases not adjudicated	No. of cases adjudicated but disposal orders not passed
1968	2	2
1969	..	2
1970	1	3
1971	1	14

3.29. The Committee also desired to be furnished with a statement showing the total number of seizures of goods other than gold made by all the Customs Houses during the later years i.e. 1972, 1973 and 1974 and the progress made in adjudication and passing of disposal orders. The Ministry of Finance (Deptt. of Revenue & Insurance) furnished the following* information:—

Year	No. of Seizures	No. of cases adjudicated as on 30-9-75	No. of cases where disposal orders passed on 30-8-75
1972	24,335	23,928	19,957
1973	30,988	29,892	23,018
1974	30,380	27,855	21,375

Note:—It excludes information pertaining to Collectors of Customs Bombay and Cochin (Central Excise Wing), Collector of Central Excise Hyderabad and part of Ahmedabad Collectorate.

3.30. The Ministry of Finance (Department of Revenue and Insurance) furnished the following* statement indicating the value of goods other than gold seized during the period 1969-70 to 1973-74, which are pending disposal as on 31-3-74 in respect of seven formations:

Custom House: Collectorate	Value of goods other than gold seized during the period 1969-70 to 1973-74 which are pending disposal as on 31-3-1974
	Rs.
1. Collector of Customs, Madras	36,59,415.00
2. Collector of Customs, Calcutta	67,09,800.00
3. Collector of Central Excise, Ahmedabad	14,51,422.00
4. Collector of Central Excise, Nagpur	8,65,604.00
5. Collector of Central Excise, Madras	44,84,838.00
6. Collector of Customs (Prev.) Bombay	11,47,19,728.00
7. Deputy Collector of Customs, Visakhapatnam	5,21,824.00

*Not vetted by Audit.

Procedure for accountal of confiscated Goods and their disposal

3.31. The Committee desired to know (i) the present procedure for accountal of (a) confiscated (seized) goods and (b) abandoned goods right from the stage they come into Customs hands and (ii) the stages that are passed through between the seizure of goods and their final disposal. In a written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:—

“All the confiscated (Seized)/abandoned goods are received in the Warehouse under the cover of a prescribed form with seals intact and are entered in the Warehouse register. The seizing officer prepares inventory of goods in triplicate and obtains receipt from the Officer-in-Charge of Godown. The Godown Officer enters the goods in the register and marks the packages with the serial No. of the entry in the register and stocks them separately. The goods are received by the Godown-in-charge on comparing and checking full description and quantity. Entries are forthwith made in the register giving details and full account of the goods—and quantities, quality and value. Movement of packages are duly recorded in the Warehouse register, as and when they are required for purpose of adjudication, court hearings etc. as and when the goods are released to the parties, or are disposed of, entries in the Warehouse register are closed. The sale proceeds are deposited in the Custom House Treasury for crediting to the Government. The sale proceeds are entered in the register. These entries in the Warehouse register are subsequently audited.

The stages that are passed through between the seizure of goods and their final disposal are as under:—

- (i) Seizure of goods.
- (ii) Issue of show cause notice to the owner of the goods after detention/seizure.
- (iii) grant of personal hearing if asked for, to the owners of the offending goods.
- (iv) adjudication, taking into consideration the various arguments adduced.
- (v) decision of the appeal, if any, preferred by the owner against the decision at the original stage.

*Not vetted by Audit.

(vi) disposal of the revision application, if any, against the order-in-appeal.

(vii) completion of court proceedings, if any.

The typical procedure, as followed in a major Custom House, is that the following notes|entries are made in the corresponding register.

After adjudication, copy of the adjudication order is received by the shed and the orders of adjudication are briefly entered in the Master Register. The dealing unit thereafter sends the file with the disposal or release order as the case may be and these orders are noted in the Master Register. After sale or release suitable entries are made and initialled by the preventive officer or the Inspector.

The file is dealt with for the purpose of investigation prior to issue of show cause notice followed by adjudication. In case of appeal|revision petition the file moves to appeal units of the Custom House and the Board|Government of India at New Delhi. In cases of prosecutions and court cases the file has to go to the legal section at the due stages. The file goes to Reward Unit for grant of reward if due. For part releases at each stage from adjudication, the file goes to the sales shed and returns to the adjudication unit."

3.32. The Committee wished to know the action taken pursuant to the recommendations of the Committee contained in paragraph 2.108 of their 44th Report (3rd LS) that the correct accounting procedure should be followed to avoid malpractices. In their written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:—

"The Directorate of Inspection, Customs and Central Excise were specially directed to keep a close watch on the procedures and carry out inspections in this regard, and submit periodical reports, which they are doing."

Delay in disposal of confiscated goods

3.33. The Committee asked about the action taken to eliminate delays in disposal of confiscated goods. In their written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

The following steps have been taken to eliminate the delays:—

1. Frequency of auctions have been increased.

*Not vetted by Audit.

2. Part adjudications and early disposal of unclaimed goods are resorted to.
3. In cases where chances of acceptance of Appeals and Revision Petitions are remote, in certain type of cases goods are being disposed of after the confiscation of goods, if the goods have been ordered to be confiscated absolutely.
4. Court permission is also being sought for sale of the goods in prosecution cases.
5. The Director of Inspection, Customs and Central Excise has also been directed to keep a close watch to the disposals.
6. Perishable goods are disposed of immediately.
7. Instructions have been issued from time to time for the expeditious disposal of confiscated goods."

3.34. The Committee asked whether the procedure followed for immediate disposal of perishable goods could not be adopted for other goods also. In their written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:

"Normally, goods seized or confiscated should not be disposed of until all the processes of adjudications, appeal and revision petition have been completed. However, in the following types of cases the confiscated goods may be disposed of observing the prescribed formalities and after due intimation to the party of the date, time and manner of sale:

- (i) Where goods are likely to deteriorate or perish.
- (ii) Where the recurring cost of upkeep is disproportionately high, e.g. in the case of animals.
- (iii) Where arrangements for storage cannot be provided except at disproportionately high cost, e.g., dangerous goods.

While the Ministry is constantly endeavouring to have disposal of confiscated goods expedited it would be inappropriate to allow sale of confiscated goods where appeals/revision petitions or court cases are pending as it would lead to various complications if the initial order of confiscation is set aside in appeal, revision, or by way of court's order. The question is, however, under consideration whe-

ther legal powers may be taken for disposal of confiscated goods in certain types of cases even before disposal of appeals etc.”

Valuation of seized goods

3.35. The Committee wished to know (a) the system of valuation of goods at the time of seizures and at the time of disposal. (b) whether other Collectorates/Customs Houses were consulted in the matter and (c) whether there were cases in the same Custom House of different valuation being adopted for identical goods.

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

“(a) In the case of goods seized the normal procedure is to ascertain the wholesale market value of the goods.

At the time of disposal of goods through auction the Customs authorities will fix the fair price of goods ripe for disposal after giving due consideration to the size of consignment, condition of the goods, type of packing etc. The retail prices of such articles may therefore be fixed by conducting market enquiries to ascertain the price at which goods of like kind, quality, shape, design, etc. are available in the retail market and deducting therefrom a ‘discount’ representing the compensation for the buyer in the retail shops for (i) absence of guarantee regarding quality, workmanship and the like (ii) lack of provision or after sale-service facilities and (iii) the fact that the goods may not always be in their original packing and condition.

(b) No other Collectorates/Customs Houses need not be necessarily consulted in the matter. However, it was brought to the notice of the Board that for identical goods there are wide variations in prices fixed by different Collectorates. Instructions were, therefore, issued to the Collectors to furnish reports/lists of prices fixed by them for all consumer goods of well-known make to the Directorate of Inspection for analysis. The Directorate of Inspection was directed to analyse these reports and bring to the notice of concerned Collectorates if any wide variations in prices fixed by them are noticed. When such

*Not vetted by Audit.

disparities were brought to their notice the concerned Collectors were required to make fresh market enquiries to check whether the prices fixed earlier need any revision.

The above order was modified in 1971 to the effect that Collector of Customs (Preventive), Bombay should select a limited number of items with their brands in which seizures are the largest and prepare a list of prices for these articles fixed by him for sale to National Co-operative Consumers Federation. A copy of this price list should be sent to the Directorate as well as to all the Collectors of Customs and Collectors of Central Excise, so that the Collectors could compare their prices with those fixed at Bombay and initiate investigations, where there are large variations in prices, for bringing about uniformity to the extent possible.

- (c) The Ministry have not been able to lay their hands readily on any papers regarding cases where in the same Custom House different valuation has been adopted for identical goods."

Sale of Confiscated goods

3.36. The Committee enquired about the correctness of the reports that the confiscated goods sold through Super Bazars and Cooperatives find their way to private retailers. The Member of the Board stated:—

"In 1950, the position was that the smuggled goods, after confiscation, used to be sold by auction. When we found that the smugglers were using the cover of these sales receipts and were selling under that cover, we stopped that practice of auctioning these goods in early 1960. After that, the system has been that we like to sell these goods to the consumers directly. Now in the case of the various consumer articles, unless one has a very elaborate sale organisation and the shops in all the places, and also having regard to the Government's policy of fostering the co-operative movement, which is responsible for sale of these articles which are in short supply and other things like standard cloth, it would be difficult to do it. So, the Government adopted this system of sale through the co-operative societies.

What you have mentioned, that from these co-operative societies and Supper Bazars, seized goods were being taken back to Mohta Market, etc. is not true. The reasons for that are not too far to seek. We used to give discount of 25 per cent to the co-operative societies out of which the Federation will have to bear certain expenses and the State unit will have to incur certain expenses and the expenses of the retail shops were about 4 per cent. So this 25 per cent discount was not too high and that was on the prevailing prices in the smugglers' market. Therefore, once the co-operative societies were selling them on the same prices or even somewhat higher prices, there was no scope for anybody to purchase these goods and then take them to the Mohta Market.

3.37. Asked if it was proposed to discontinue the practice of selling the confiscated goods through the co-operatives societies. The Member of the Board stated:—

“The problem we had faced was that some units in the co-operative societies were misusing this practice, and, therefore, we wrote to the co-operative department and they had taken action against those cooperative societies. The question is what method of sale we should adopt.”

“It has been modified now. The sales are being permitted only in those cities where even otherwise smuggled goods were available for sale. Now, the Finance Minister is himself engaged in looking into as to whether these sales should continue and the Chairman has pointed out that the whole thing is engaging his attention afresh.”

3.38. The Committee asked whether anything could be done to check demand for foreign goods. The Chairman of the Board stated:—

“This is a very vital question. Decisions are taken in the Finance Ministry. There are no two opinions about that that this activity goes on because there is demand. Whether we call it respectability or whatever it is, the net result is that there is demand for it and people like to buy it openly. They try to show off.

Take Scotch Whisky. In a cosmopolitan place like Bombay this was available; now they are groaning that it is not available. That is also a fact.

If a climate against these goods is created, it would tremendously help us."

The Member of the Board stated:—

"There was a time when years back transistor radios used to be smuggled in large quantities but as we started making good transistor radios, hardly any transistor radio is smuggled. The same thing has happened in the case of stainless steel blades. One time large quantities of Gillette blades used to be smuggled. Now when good blades like Topaz have started coming, blades smuggling has come down. The whole smuggling is concentrated on the synthetics. Another item where there is large-scale smuggling is watches. I do not know whether you would say if a watch is a necessity or a luxury or an article which is midway between. Our demands for watches is supposed to be of the order of 30 lakhs a year whereas we hardly produce 5 lakh watches a year.

These are factors, I think, which have necessarily got to be taken into account in any overall planning to combat smuggling because my own conviction is that apart from police measures whether it is custom or whatever it is, you have got necessarily to tackle the genuine needs, though one may not go to the extent of saying that there is need for scotch whisky to be imported."

3.39. Asked if the question of re-exporting the smuggled goods had been considered, the Chairman of the Board stated:—

"These questions have been carefully considered by the Finance Minister himself who is extremely anxious to find a solution to this problem. He has been going personally into these questions. You have very clearly stated that there is a tremendous amount of craze for these goods. I can say 30—40 per cent of Indian goods are sold under foreign labels as smuggled goods. People are crazy about something foreign.

So far as sending them abroad is concerned, take for example, watches. From the time they are seized to the time they are ripe for disposal, there is a certain timelag. Nobody is going to buy a watch which has been detained for two years. We attempted it and did not succeed. Nobody can give a guarantee."

"Similarly with regard to textiles, we find that the goods imported are mostly tailor-made for this market. They are mostly in the nature of saris. We thought of disposing it in other markets. We contacted STC to see if they could come to our rescue. They said things cannot happen like that. For one thing, there must be demand. Then you should be able to keep a steady market, feeding the market. Otherwise, nobody will look at these things. There also we have not succeeded. Where we have succeeded is in the sale of very huge stocks of foreign liquor. Many of the big hotels who have got import licences for foreign liquor are being supplied with the confiscated stocks and we are debiting those licences to that extent so that foreign exchange is not spent by them on the imports."

3.40. The Committee wanted a statement indicating the final decision, arrived at regarding disposal of confiscated goods. In a note,* the Ministry of Finance intimated, *inter alia*:

"As had been stated during evidence, the system of sale of confiscated goods through Cooperative Societies hitherto in vogue had been under review of the Government. In August, 1975 instructions were issued to all the Collectors, of Customs and Central Excise that confiscated watches may be sold to the Armed Forces, CRP, BSF and Para-Military Forces in the first instance upto their full requirements and if any watches are left over they may be sold to the NCCF, Police Canteens and the Home Ministry Cooperative Society. Calculating machines should be sold to Government offices in the first instance and also to the Universities etc. Similarly, Electronic goods should be sold to Schools, Universities, Government offices etc., in the first instance and if not taken up by them sold to the NCCF and other organisations.

2. Regarding confiscated textiles/fabrics the Collectors were directed in October, 1975 to dispose of them in accordance with the existing orders after escalating the prices by 50 per cent over the price fixed for similar goods prior to June, 1975 provided that the price re-fixed should not be more than 90 per cent of the prices of similar goods manufactured in India. The prices are being further reviewed.

*Not vetted by Audit.

3. The question of export of confiscated textiles through State Trading Corporation is being pursued."

Stock taking of Confiscated Goods

3.41. When the Committee drew attention to the statement in the Audit Paragraph that the stock taking reports (August, 1974) had revealed that in 493 cases goods (valuing Rs. 93,257) were not physically present in the shed and the Master Register did not also bear any indication of the sale proceeds thereof having been deposited to the Government account, the Member (Customs) stated:—

"Various items had already been disposed of. But the vouchers were not available. They had not entered them up in the book due to rush of work. Subsequently all of them have been entered in these books."

3.42. The witness said further:—

"There was some delay in entering the vouchers against the respective entries in the books. We have a system of pooling items. One particular item in the main Register, for instance, may consist of four or five different description of items. There could be a tape-recorder and in the same box there could have been a radio; there could have been a saree. Now, the procedure is this. In order to get the best price, what is being done is, the sarees are being segregated and sold. So, in this way, it is not entered at that stage, but subsequently they have entered them up in these books."

"This they should not have kept open for such a long period and I may point out that the officers concerned have been suitably dealt with."

3.43. On the Committee asking whether stock-taking of the goods lying in the godown of Customs had been completed, the Member (Customs) stated:—

"Stock-taking has been done for Bombay in the case of valuables, and for other than valuables I am told that the stock-taking has been completed recently. But I have to verify this. I think in Madras it must have been done because the Customs House is a small one there and generally the papers are kept in order at Madras."

3.44. Asked about the periodicity of stock-taking the witness state: "We would like that it should be done every six months under the orders of the senior officers."

3.45. The Committee wished to know the results of stock verification in respect of different Custom Houses. In a written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:—

“Information received from the collectors of Customs and Central Excise in this regard indicate that stock verification of goods stored in customs Warehouses has been done by officers nominated by the Collectors concerned. Except in the case of the Collectorate of Customs, Calcutta and the Collectorate of Central Excise, Delhi, the officers verifying the stock did not find any discrepancies/variations etc.”

In respect of the Customs Warehouse at Calcutta, in his report the Inspector conducting stock verification of the Sales Shed in 1973 showed a number of old lots as “Not Found”. On further orders the Inspector paid special attention to these lots and then reported that disposal of some of the lots was partly entered in Master Register. It was, therefore, ordered that the work of backing up of these records after scrutiny from old records should be taken up on priority basis by special disposal Cell. The work is in progress. A few cases of opened or damaged packages were also reported in the stock taking report of 1973 for (Calcutta Custom Warehouse) but after scrutiny, the goods were found to agree with the corresponding entries in the Master Register and relevant files.

So far as the Collectorate of Central Excise, Delhi is concerned, stock verification conducted has revealed that there is no discrepancy at Head-quarters and warehouse at Palam. However, at Air-cargo godown at Palam 4 cases of 1974 and 1975 were referred to Police. 3 cases are still under investigation and one case has been filed as untraced. Some consignments remain to be located but some packages were also found which have to be correlated.

Information in respect of the Collector of Central Excise Allahabad will follow as some clarification is yet to be received from him.”

3.46. The Committee enquired whether any correlation was maintained and reconciliation effected periodically between the en-

*Not vetted by Audit.

tries in Master Sheet, inventory register and cash memos of disposed goods, and also how the book balances were arrived at, at any point of time, if there was no such proper correlation and reconciliation. In a written *reply, the Ministry of Finance (Department of Revenue and Insurance) stated:—

“The reports received from the Collectors of Customs and Central Excise in this regard have revealed that generally correlation is maintained between the registers maintained for recording seizures and disposal of confiscated goods. The procedures followed, however, do not appear to be uniform. Instructions have been issued to ensure uniformity in this regard.”

Disposal of vehicles lying with Custom House, Delhi

3.47. During his visit to the Delhi Customs House, the Chairman, Public Accounts Committee noticed a large number of seized vehicles exposed to the vagaries of weather and also learnt that there was delay in their disposal. Similar situation was discovered by the Study Group of the Public Accounts Committee during their visits to Calcutta and Madras Custom Houses.

3.48. When the attention of the Chairman of the Board was drawn to the position obtaining in Delhi he stated during evidence:—

“For the cars that are lying there, the PWD is trying to put up some sort of a shed. But if I may humbly submit, even our cars bought with our own hard earned money are in the open and have no shelters at all. If a confiscated car lies exposed to the elements that by itself may not mean very much. There are no garaging spaces for all of them. None-the-less I hope the PWD will oblige us with some space.”

The Finance Secretary stated:

“It appears that the proposal for a car shed for the customs house was started way back in 1970. You will recall that we have been passing through a very severe financial crisis and there was a ban imposed on the construction of buildings. Besides the Committee may also like to consider the relative advantages and priorities of constructing a shed for his purpose and providing accommo-

*Not vetted by Audit.

dition for officers and people. Our resources are limited. I hope this aspect would be considered by the Committee."

3.49. The Ministry of Finance (Department of Revenue and Insurance) later furnished a statement indicating the position of undisposed vehicles in Delhi Customs House as on 29-8-1975, as follows:—

	No. of vehicles
(1) Surrendered vehicles	12
(2) Vehicles kept for safe custody	14
(3) Seized vehicles	26
(4) Vehicle pending clearance on payment of duty and ITC	5

3.50. The Committee asked whether the State Trading Corporation could not take over the disposal of confiscated cars. The Member (Customs) stated:—

"Point was made by the Public Accounts Committee some time ago and the Matter was gone into and we find that the STC would not be inclined to take cars of the kind we sell because of their conditions and we have to continue with this problem."

3.51. The Audit Paragraph refers to 133 cases of seizure of contraband gold pertaining to the period from January 1970 to June 1974 involving a total value of Rs. 14.74 crores. According to the information furnished by the Ministry, in 72 of the cases prosecution had been launched, in 12 cases prosecution was under consideration, 26 cases were pending adjudication and in 20 cases goods remained unclaimed. Out of 72 cases in which prosecution was launched 30 cases had resulted in conviction, two in acquittal, while the remaining cases are still pending in the courts. The Committee are surprised that in as many as 12 cases of import of contraband gold the question of launching prosecution was still under consideration. Seizure of gold should invariably be followed by very prompt action, for delay defeats the very purpose of the law. The cases pending with the Courts should be vigorously pursued, and a report sent forthwith to the Committee.

3.52. As stated earlier, 26 cases are pending adjudication, while in 20 cases the goods remain unclaimed. The Committee disapprove of such delay in adjudication after seizure of contraband gold. Why the 20 cases in which goods are unclaimed should be still pending should be explained.

3.53. The Committee understand that the delay in adjudication is to some extent due to the legal process required to be followed and that sometimes the position is aggravated by the dilatory tactics adopted by the parties concerned. The Ministry is not in favour of any time limit, however, reasonable, being fixed for finalisation of adjudication as that might, in its view, result in the cases being decided in slip shod manner.

3.54. The Committee asked whether any change in law was felt necessary to reduce delay in adjudication. The Board explained that it would be salutary if there was some system by which the parties could be precluded from having as much opportunity as they have at present to delay proceedings. If, however, full opportunity was not given writ petitions might be filed under Article 226 of the Constitution. In such circumstances, the Board was examining how the writ jurisdiction in some of these cases could be taken away. The Committee expect that this examination will be expedited and the results made known. It is particularly urgent that the law's delays should be eliminated at least in adjudication of cases relating to smuggling.

3.55. While conceding that the delay in adjudication should be minimised, the Ministry appeared to be of the view that this matter should rather be left to heightened administrative check and inspection. It was expected that with a strengthened staff work could be done more speedily and efficiently. The Ministry also intimated that one reason for delay in adjudication proceedings was that senior officers were under severe pressure and could not devote as much time and attention as was needed.

This does not appeal to the Committee to be an insurmountable difficulty. Pending a radical solution of the problem, these matters should be intelligently tackled and the Central Board of Excise and Customs should step up scrutiny of pending cases and ensure quick disposal since only a proportion of it have peculiar complications.

3.56. The Committee have learnt that in order to avoid delays in courts, it has been decided in principle to establish special courts for trial of customs offences. The Committee welcome the idea and urge that speedy action is taken in this matter.

3.57. The Committee are gravely concerned about the unconscionable delay in adjudication of cases of seizure of goods (other than gold) in various Collectorates of Customs and Central Excise. To give an example of the position, the Audit Paragraph had pointed out that in Calcutta Custom House alone in July 1974, out of 3,462 cases of seizures pertaining to the years 1968, 1969, 1970 and 1971, 364 cases were still pending. As on 1st February, 1975, 314 cases had not been adjudicated or in which disposal orders had not been passed. However, during evidence in September, 1975, the Committee were informed that only 25 of those cases awaited adjudication and/or post adjudication disposal. The fact that the Custom House could dispose of 289 old cases after the Audit Paragraph indicates that serious efforts had not been made earlier in this direction.

3.58. According to the information furnished to the Committee pertaining to the years 1972, 1973 and 1974 as many as 4378, 7970 and 9005 cases respectively were pending on 30th September, 1975 in most of the Customs Houses taken together for want of adjudication or disposal orders. The value of goods other than gold seized during the period 1969-70 to 1973-74 and pending disposal as on 31st March, 1974 in some Collectorates of customs and Central Excise about which the Committee had information is very large. In this connection, mention may be made of the goods valued at Rs. 11,47,19,827/- pending disposal in the Collectorate of Customs (Prev.) Bombay, Rs. 67,09,800 in Collectorate of Customs, Calcutta and Rs. 44,84,838 in Collectorate of Central Excise, Calcutta. The Committee are disturbed by such figures and would require the Central Board of Customs and Excise to examine the matter earnestly and prevent such accumulation in future.

3.59. Under the existing procedure the confiscated goods are not disposed of till all the entire process of adjudication, appeal and revision petition etc. has been completed. Only in certain types of cases namely, (i) where goods are likely to deteriorate or perish, (ii) where the recurring cost of up-keep as of animals, is disproportionately high, and (iii) where arrangements for storage cannot be provided except, as in the case of dangerous commodities, at disproportionately high cost, the confiscated goods can be disposed of earlier. The Committee learn that Government are considering whether legal powers may be taken for disposal of confiscated goods even before the disposal of appeals, revision petitions etc. The Committee feel that Government should have made these exercises much earlier, and urge rapid finalisation of the issues involved.

3.60. It was admitted during evidence that the Board had already noticed that for identical goods, there were wide variation in the prices fixed by different Collectorates. The Committee learnt that instructions had been issued to Collectors to furnish list of prices fixed by them for all consumer goods of well-known makes to the Directorate of Inspection whose duty was to analyse such reports and bring to the notice of the concerned Collectorates any wide variation in prices fixed by them.

3.61. The Committee are anxious that there should be uniformity in valuation of identical goods by the various Excise and Customs Collectorates and that the prices fixed should be realistic and comparable with market prices. This matter should receive the constant and vigilant attention of the Board.

3.62. The system of sale of confiscated goods through Cooperative Societies hitherto in vogue has been under review by Government. In August, 1975, instructions were issued to all the Collectors of Customs and Central Excise that confiscated watches could be sold as a first priority to the Armed Forces, Central Reserve Police, Border Security Force and Para-Military Forces upto their full requirements, and if any were left over they could be sold to the National Cadet Corps Formations, Police Canteens and the Home Ministry Cooperative Society. In the case of calculating machines the instructions were that they should be sold to Government Offices in the first instance and then to the Universities and similar institutions. Similarly, Electronic goods were to be sold to Schools, Universities, Government offices etc. in the first instance and if not taken up by them, sold to the National Cadet Corps Formations and other organisations. Regarding confiscated textiles/fabrics the Collectors were directed in October, 1975 to dispose them of in accordance with the existing orders after escalating the prices by 50 per cent over the price for similar goods prior to June, 1975, provided that the price refixed was not more than 90 per cent of the prices of similar goods manufactured in India. The prices, it appears, are being further reviewed. The Committee have also been informed that the question of export of confiscated textiles through the State Trading Corporation is being studied. The Committee wish that early decision in this matter which is not too complex should be taken by Government. In the meantime, necessary safeguards should be enforced so that misuse of the present provisions is prevented and there is no veiled trading, by the backdoor as it were, of smuggled goods.

3.63. According to the Audit Paragraph, the stock taking reports (August, 1974) in Calcutta Custom House revealed that in 493 cases the seized goods were not physically there and the Master Register did not also bear any indication of the sale receipts thereof having been deposited to the Government account. During evidence the Committee were informed that these items had been actually disposed of but the vouchers could not be entered in the books on account of unusual rush of work. Subsequently, it seems, the vouchers did get entry in the books, and the officer involved in the matter had been suitably dealt with for the delay in entering the vouchers. The Committee are unhappy at such glaringly defective maintenance of store accounts in the Calcutta Custom House. The Committee recall that in paragraph 2.108 of their 44th Report (3rd Lok Sabha), it had been recommended that correct accounting procedures should invariably be followed so that, malpractices could be checked in time. In pursuance of this recommendation, the Directorate of Inspection were required to keep a close watch on the procedures and carry out inspections from time to time. The Committee are anxious that this task should be seriously undertaken and competently performed.

3.64. It has come to the notice of the Committee that there has hardly been any uniformity in the procedures followed by different collectorates in maintaining correlation between the registers kept for recording seizures and disposal of confiscated goods, but that Instructions have been issued by the Board to ensure uniformity in this regard. The Committee consider that the correlation and reconciliation between the entries in the Master Sheet, Inventory register and Cash Memos of disposed goods is essential and would ask the Directorate of Inspection to keep it seriously in mind.

3.65. During a visit to Custom Houses at Delhi, Calcutta, and Madras, it was found that there was delay in disposal of seized vehicles which were often kept exposed to the vagaries of weather, thus inevitably reducing their disposal value. The Committee are surprised that a proposal made as far back as in 1970, for putting up a shed in the Custom House Delhi has not yet been implemented. This is something which can be done at once. The Committee urge also that the adjudication of cases and the disposal of confiscated vehicles should be expedited by a little special effort.

Audit Paragraph

3.66. In December, 1972, the Government of India issued orders accepting the recommendation of the Committee on disposal of

confiscated goods that nylon and other synthetic yarn should be sold in auction by the department directly to Weavers' Associations/Co-operatives and certified actual users. Payment of any discount was not contemplated. Subsequently, in partial modification of the above orders, the Government of India in May, 1974 directed that such yarn could be sold to Weavers' Associations/Co-operatives on the basis of market price minus 10 per cent of discount. These revised orders being prospective are operative from the date of issue only.

3.67. In disposing of some quantities of metallic yarn confiscated under the Custom Act in a Central Excise Collectorate, the department did not comply with the earlier specific orders of the Government of India and sold the yarn to cloth manufacturers' association and co-operatives during the period from March to November, 1973 at prices fixed by a price fixation committee and a discount of 10 per cent was also allowed to the buyers. The loss by way of discount of Rs. 74,354 allowed on these sales could have been avoided had the department followed the order issued in December, 1972. The practice at a major Custom House and in the Central Excise department in the neighbouring States was to conduct auction for disposal of such goods and no discount was being allowed.

3.68. Moreover, the price fixed by the department was not apparently based on a realistic estimation of the market price. The price was considerably lower than the price obtained during the corresponding period in auction sales of the same brands of yarn in a nearby Custom House. The parties who purchased the yarn at lower rates from the Central Excise department participated in such auctions, offered and paid higher prices. The omission of the department to conduct auction or at least to fix a realistic price, apart from the loss on account of grant of discount, resulted in a further loss of revenue amounting to Rs. 40,234 on the sale of 22,425 reels of yarn in August and October, 1973 as computed on the basis of prices (excluding sales tax) obtained in auction sales in a neighbouring State. The loss sustained in the sales conducted during the months of March, April, June, July and November, 1973 could not be ascertained as there was no auction during these months in the neighbouring State.

[Para 12(ii) of the Report of C&AG for 1973-74 (Civil)
Revenue Receipts—Indirect Taxes]

Sale of metallic yarn to cloth manufacturers Associations and Co-operatives

3.69. The Committee were informed by Audit that the price fixed in this case (occurring in Bangalore Collectorate) was lower than that fixed in a neighbouring Collectorate (*viz.* Cochin) where the same parties purchased the materials at higher prices as shown below:

Brand/Yarn	Bangalore	Cochin
	Collectorate	Custom House
	Rs.	Rs.
Mamillon Brand (10,000 Mts.)	10.80	12.50 to 15.00
Prem Brand (10,000 Mts.)	9.00	11.25 to 13.63

(The prices shown are for the period August to October, 1973)

A comparative position of the price of the yarn in the aforesaid two Collectorates in July-September, 1974 is given below:—

Brand/Yarn	Bangalore	Cochin
	Collectorate	Custom House
	Rs.	Rs.
Prem Brand Silver	16.50	26.10
Prem Brand Gold	15.50	39.50
Mamillon Gold	17.00	44.50

In May 1974, the order for disposal of synthetic yarn were changed as under:—

“Nylon and metallic (radiant) yarn may be sold to weavers Associations/Co-operatives directly on the basis of market price minus 10 per cent discount. These goods may also be sold to certified actual users by auction. Direct sales on the basis of market price minus 10 p.c. discount cannot be made to actual users and should be confined only to co-operatives/Associations.”

After these orders were issued, it has been reported that the Customs Department in Karwar disposed of 7200 reels of Mamillon yarn in October 1974 at Rs. 17 per reel less 10 per cent discount, the prevailing in Cochin was about Rs. 44 per reel.

3.70. During evidence, the Member (Customs) stated:

“Each Collectorate has got a pricing committee consisting of Assistant Collector (Disposals), one officer nominated by the Collector—usually the Assistant Collector in the Appraisal Department and the inspector in charge of the warehouse. After making careful enquiries from the local market, they fix the price at which it is to be sold or above which it can be auctioned.”

3.71. Referring to the difference in the prices of the same brand of yarn in Bangalore and Cochin Collectorates, the Member (Customs) stated:

“The sale in Bangalore was made on the basis of market price minus 10 per cent discount whereas the comparative price taken is from sale by auction. It is submitted that it would not be correct to compare auction price with price fixed after market enquiry.”

3.72. The witness added:

“It will be difficult to say whether the quality of yarn was the same or different. It needs further looking into. We feel the auction price could be different from the price fixed by market enquiries.”

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

“The price in Bangalore was the price fixed by the Price Fixation Committee, after comparison with the prices fixed at Bombay.

The comparative data is given below:—

	Mamillon	Prem Brand
	10,000 Mts. Gold Colour	10,000 Mts. (Gold Colour)
	Rs.	Rs.
Bombay (During May 1973)	11.00	9.50
Bangalore (8/73 to 11/73)	12.00	10.00

*Not vetted by Audit.

The prices realised at Cochin are in the auction conducted by them. It would be unrealistic to compare these two prices as they have been realised under different circumstances. The auction purchasers would include actual users also and not only Societies. Besides, whereas the description of the yarn sold in Cochin and Bangalore may be similar it would be difficult to compare the goods sold with reference to quality and packing."

3.74. To a question whether there were any orders regarding transfer of goods to a collectorate where they could fetch higher prices, the Ministry of Finance stated in a written reply*:

"Instructions were issued to the Collectors of Customs and Central Excise in 1968 that if attempts to sell goods locally fail, these may be transferred to places where there is a better market. This should be done in consultation with the other Collector."

3.75. The Committee desired to know the circumstances under which discount was allowed in Bangalore Collectorate and the authority for a similar practice followed in Bombay Collectorate. In a reply*, the Ministry of Finance (Department of Revenue and Insurance) stated:

"The Collector of Central Excise, Bangalore has reported that the parties concerned had produced copies of Cash Memos issued in the Collectorates of Customs and Central Excise, Bombay in respect of sale of metallic yarn to them (M/s. Salem Handloom Cloth Manufacturers and Exporters Association, Salem), where a discount of 10 per cent on the total price determined on the basis of the price fixed by the Departmental Price Fixation Committee has been allowed. The Collector has stated that the Assistant Collectors concerned in his Collectorate have obviously adopted the same procedure as that prevailing in the Customs and Central Excise Collectorates of Bombay.

The practice in Bombay to sell at market price less 10 per cent, to Co-operative Societies was based on Board's telex dated 22nd May, 1972. It is observed that this system, in preference to the auction system was introduced, as there was a proposal to this effect from Maharashtra Government

*Not vetted by Audit.

and it was found that this would ensure clearance of the larger stocks accumulated and which might have deteriorated. Many Collectors had at that time reported the difficulties relating to the disposal of confiscated nylon yarn and metallic yarn, and so sale through the Bombay Collectorates by the other Collectorates was also made possible vide Board's letter dated 19-1-73.

The Associations of weavers had been treated on par with Co-operative Societies for the sale of yarn by auction in the Board's letter of 14-12-72. The yarn being a notified item under Chapter IVA of the Customs Act as amended, the actual use by the members of the Association purchasing the yarn could be verified with the accounts etc. maintained as per the stipulations under the Rules made under that Chapter. The application of the orders regarding sale at market value less 10 per cent, to the Association would seem to be justified. It is also observed that this Association was also specifically allowed by the Board in January 1974 to make purchases from the Bombay Collectorates."

3.76. This is a clear case of contravention of Government orders (December, 1972), according to which, confiscated rayon and other synthetic yarn were required to be sold in auction by the department directly to Weavers' Association/Cooperatives and certified users without any discount. Under earlier instructions of the Central Board of Excise and Customs of May, 1972, there had been, it appears a practice in Bombay Custom House to sell the yarn to cooperative societies at market price less 10 per cent. The Committee are unhappy that this practice was continued in spite of the subsequent orders issued in December, 1972. The Collectorate of Central Excise, Bangalore also followed the wrong practice prevalent in Bombay Collectorate, on the parties concerned producing copies of Cash Memos issued by the Collectorates of Customs and Central Excise, Bombay, without applying their mind to such cases and glibly overlooking that the practice contravened the orders of the Board issued in December, 1972. This resulted in loss by way of discount amounting to Rs. 74,354 on the sales during the period from March to November, 1973. The Committee wish that responsibility should be fixed for such contravention of the Government's categorical orders issued in December 1972, both in the Bombay and Bangalore Collectorates.

3.77. The Committee note, however, that the orders of the Board issued in December 1972 were subsequently modified in May,

1974, to the effect that such yarn could be sold to Weavers' Association/Cooperatives on the basis of market price minus 10 per cent discount. But no satisfactory procedure appears to have been followed by the Bangalore Collectorate to ascertain the market price for the identical goods. According to the figures furnished by Audit, the prices obtained in auction by the neighbouring Cochin Customs were considerably higher than those charged by the Bangalore Collectorate from the Handloom Cloth Manufacturers Associations. The price of Mamillon Gold yarn was Rs. 44.50 at Cochin Customs House vis-a-vis Rs. 17 obtained in the Bangalore Collectorate during the period July—September 1974. This is a wide disparity, and the Committee do not countenance the view urged on them that it would be unrealistic to compare the auction price in the Cochin Collectorate and the market price followed in the Bangalore Collectorate. Even granting that auction and market prices might be somewhat different, the Committee do not consider that the gap could be so wide. It may be noted, for whatever it is worth, that the prices fixed by the Bombay and Bangalore Collectorates were somewhat comparable. Indeed, this whole matter of whether the market prices in the Bangalore and Bombay Collectorates were properly fixed should be looked into. The Committee are of the view that the Department might itself conduct an auction, and on the basis of such experience as well as other circumstances of which they can take cognisance, evolve a fairly foolproof procedure in this regard.

Audit Paragraph

3.78. 34 bundles of contraband goods thrown overboard a smuggler's launch on its being chased by a Customs Sea patrol party were salvaged and brought ashore on 9th April 1973. The goods consisting of shirtings, sarees and silk yarn of foreign origin were soaked in sea water. Before depositing the goods in the nearest Customs godown an attempt was made by the department to get some pieces of fabrics washed in fresh water but this was given up considering the expenditure involved and the possibility of the marking, numbers, country, of origin etc., printed on the fabrics being erased making it difficult thereby to establish the contraband nature of goods. The silk yarn which did not obviously contain any such identification marks was not washed and dried. Even though the goods were of an abandoned nature the adjudicating authority issued orders for their disposal only in June, 1973. Sarees and shirtings valued at Rs. 3,68,675 were disposed of during the last week of June, 1973 for Rs. 1,63,379. The silk yarn valued at Rs. 34,500 was disposed of by auction in October, 1973 for Rs. 400.

3.79. The Ministry have stated in February, 1975 that after a vain attempt to wash and dry the goods, an Appraiser from the Custom House took samples of the goods in question to ascertain their condition, marketability, etc. Subsequently the Custom officers examined the goods and observed that these would not fetch normal prices, if sold in the market and recommended that the sarees and check shirtings may be sold at 50 per cent of the normal scale of price fixed and other varieties of shirtings may be sold at 60 per cent of the normal price. Regarding the silk yarn the Ministry have replied that the Collector had stated that it was salvaged from the sea in a completely soaked condition, had already undergone chemical decomposition and had become a clustered damp mass in which condition it was not possible to wash and dry the entire yarn length.

[Para 12(iii) of the Report of C&AG for 1973-74 (Civil),
Revenue Receipts—Volume I Indirect Taxes.]

Disposal of contraband goods salvaged from sea

3.80. The Committee desired to know the reasons for a low price of Rs. 400 obtained in auction of silk yarn valued at Rs. 34,500. The Member (Customs) stated that "all the material having fallen into water was not fit to be sold as silk.....Finally it was sold as manure."

The Committee asked the reasons for delay in disposing of the abandoned goods whose owner had run away. The Chairman of the Board stated that "investigation have got to be done about the people behind it." He added: "Until the time these goods are confiscated they cannot vest in the Government."

Asked why these were not confiscated straightway, the witness replied: "For the time being, we do not know the owner. We have to put up a note on the notice board of the Custom House."

3.81. In a written *reply explaining the reasons for a delay in disposal of the abandoned goods, the Ministry of Finance (Department of Revenue and Insurance) stated:

"Although there was appreciation on the part of the officers at all levels regarding the need to dispose of the goods imme-

*Not vetted by Audit.

diately after seizure, there had, however, been some hesitation to cut short usual procedure lest the motives for hasty disposal might be questioned at a later date. A time chart is given at the following:

1. Date of seizure	9-4-73
2. Date of transport of the seized goods from Azhikkal to Kozhikode	9-4-73
3. Inspector's report stating the difficulties in washing the goods in fresh water and informing that the goods are only dried up in Sun	10/11-4-73
4. Superintendent Special Custom Preventive Kozhikode's report to A.C., Kozhikode informing that it may not be advisable to get the fabrics and yarn washed in clean water and that the bundles are only being opened and rolls being dried up in the Sun	11-4-73
5. Date of deposit of the goods in Custom House, Kozhikode	21-4-73
6. Report of Superintendent, Custom House, Kozhikode informing the wet condition of the goods and seeking immediate disposal of the goods	21-4-73
7. Report of the Asstt. Collector, Kozhikode to Additional Collector of Customs, Cochin to get the fabrics and yarn washed in clean water and dried up	23-4-73
8. Date of submission of the case records by Assistant Collector Kozhikode to Additional Collector	24-4-73
9. Date of issue of Show Cause Notice	26-4-73
10. Report of Supdt., Kozhikode to Assistant Collector, Kozhikode requesting orders for early disposal of the goods	23-5-73
11. Report of Assistant Collector, Kozhikode to Additional Collector seeking orders for disposal of the goods	30-5-73
12. Orders of Additional Collector for disposal of the goods	6-6-73
13. Orders of Assistant Collector, Kozhikode to Superintendent, Customs House, Kozhikode communicating Additional Collector's orders and informing that other items of goods ripe for disposal may also be kept ready for disposal for appraising by the Valuation Committee	11-6-73
14. Date of issue of adjudication orders by Additional Collector	14-6-73
15. Date of appraisal of value of the goods and direction of the Valuation Committee to send the silk yarn to Custom House Cochin	17-6-73
16. Date of intimation of Superintendent, Custom House, Kozhikode to Custom House, Cochin, informing that the goods are ready for despatch	17-8-73
17. Date on which the samples were called for by Custom House Cochin	30/31-8-73

18. Date of despatch of samples by Superintendent, Custom House Kozhikode	13-9-73
19. Date of despatch of silk yarn to Custom House, Cochin for disposal	28-9-73
20. Date of despatch of Samples by Custom House, Cochin to Chemical Examiner	1-10-73
21. Date of report of Chemical Test	1-10-73
22. Date of auction of the goods	4-10-73

3.82. The delay between the visit of the pricing committee and the date on which the Superintendent took the matter for disposal with the Custom House has been explained as follows:

“The pricing committee visited Custom House and suggested for removal of the goods to Cochin for disposal. The Calicut Custom House presumably under a mis-apprehension waited for a formal advice from Cochin Custom House for physical removal of goods as ordinarily due to lack of accommodation in Cochin Custom House bulky goods are not taken, till date of auction is fixed. When no such advice was forthcoming even after lapse of reasonable period, the Calicut Custom House intimated Cochin Custom House that goods were ready for despatch. On receipt of the letter the Cochin Custom House called for samples. The Calicut Custom House sent samples to Cochin Custom House on 13th September 1973. The sample was sent to Chemical Examiner on 1st October 1973 and test result was given on the same date. During the intervening period, the Cochin Custom House fixed date for auction and gave wide publicity to the same. The goods were auctioned on 4th October 1973.”

3.83. To a question whether the goods were examined by the Assistant Collector and what steps were taken by him to dispose of the goods immediately, the Ministry of Finance in their written note* replied:

“The Assistant Collector examined the abandoned goods on 10th April 1973 and instructed that the goods which were soaked in Sea water must be washed in fresh water and dried up before depositing the goods in the Custom House. The Assistant Collector also directed the Superintendent of the erstwhile Kozhikode Special Customs Preventive

*Not vetted by Audit.

Circle to attend to the matter on top priority basis and accordingly the case records were submitted expeditiously. The deteriorated condition of the goods and the need for immediate disposal of the same was brought to the notice of the Additional Collector by the Assistant Collector under his letter dated 23rd April 1973. The case records were submitted on 24th April 1973. The Additional Collector was again requested by the Assistant Collector on 30th May 1973 to issue orders for the disposal of the goods pending adjudication. In the course of a visit by the Additional Collector to Calicut Custom House at that time this request was orally permitted and the same was communicated in writing on 6th June 1973 in reply to the Assistant Collector's request dated 30th May 1973. The Assistant Collector, in turn communicated the Additional Collector's orders to the Superintendent, Custom House, Kozhikode and informed that other items of goods ripe for disposal may also be kept ready for disposal for appraising by the valuation Committee. The Valuation Committee visited Custom House, Calicut on 17th June 1973 and after inspection of the goods suggested removal of yarn bundles to Cochin for disposal."

3.84. In reply to a question whether adjudication order was necessary in case of abandoned goods, the Ministry of Finance (Department of Revenue and Insurance) stated in their note*—

"An adjudication order is normally necessary for the disposal of goods even in the case of abandoned goods, unless they are considered to be perishable."

3.85. The Committee desired to know how the goods were valued at the time of seizure and how it came down at the time of disposal. In their* note, the Ministry of Finance (Department of Revenue and Insurance) stated:—

"At the time of seizure, the goods were valued taking the value of prime goods and the officers had not made suitable allowance for the fact that the goods were salvaged from sea-water.

The value of yarn came down at the time of disposal because the goods deteriorated due to the soaking in Sea-water and

*Not vetted by Audit.

in spite of attempts to wash off the saline water with fresh water, the process of deterioration and formation of mass could not be prevented. Matthew's Textile Fibres (6th Edition, page 801) shows that salinity of the order of Sea water causes distinct tendering in seven days."

3.86. The Committee desired to know the powers delegated to various officers for disposal and whether these powers had been reviewed. In the written* reply, the Ministry of Finance stated:—

"The powers of disposal by various officers do not appear to have been delegated by any specific general order. In major Custom Houses, generally the officers dealing with disposals arrange for disposal, as soon as the goods become ripe for disposal. Usually an Asstt. Collector is in charge of the disposal. In the Central Excise Collectorate Asstt. Collectors are required to attend auctions when the value of goods is Rs. 5000|- and above. There are, however, orders regarding fixing of prices for the purpose of auction, which lay down the limits of powers in this regard by Assistant Collector, Deputy Collectors and Collectors."

3.87. This is a case of delay in the disposal of smuggled goods seized after a strenuous chase by a Customs Patrol Party. It appears that the goods were thrown on to the sea and were naturally somewhat damaged in the process. The Department unfortunately sat on them for about 10 months before they could be disposed of. The Committee wish the Board to examine steps for quick disposal of similarly damaged goods, at least before the deterioration goes too far. Powers could be delegated to the officers for rapid disposal of such damaged goods particularly when they are unclaimed. It should be ensured also that the price of such damaged goods at the time of seizure and of auction is fixed realistically.

*Not vetted by Audit.

APPENDIX I

(Vide para 1:24)

Sl. No.	Finding/Recommendation	Action taken by the Government
1	2	3
1.	With the growing concern shown by the Public Accounts Committee in the variations as between budget estimates and the actuals, great deal of refinement in procedures has been attempted to improve the techniques of forecasting. Nevertheless, the system improved as it is, has not been able to achieve the objective which the Public Accounts Committee has been impressing upon in its reports (Para 2:20)	The Committee's observations have been noted.
2.	Given the well-known imponderables in the situation, such as the fluctuations in international prices, constraints of foreign exchange availability, changes in import composition, and the like even the great care that is taken at every level in forecasting revenue has not resulted in a reasonably accurate system of forecasting. (Para. 3:1)	The Committee's observations has been noted.
3.	The Indian Embassies, High Commissions or Ministries are not in the best position to provide additional data regarding international prices of imported commodities and intelligence regarding export prices and prospects. While all efforts must be made to improve our statistics and knowledge of international markets, the C.R.E.C. also may not be in the best position to undertake such an exercise.	No action.
4.	The Custom Houses should furnish to the Central Board of Excise and Customs estimates of quantity/Value of imports that are implicit in their revised estimates of likely revenue during the current year.(para 3:8)	Paras 3:3 and 3:9—Although, the Expert Committee had observed in para 3:9 of its report that the estimates for the budget year provided by the Custom House did not serve any useful purpose, it was felt that these estimates which the collectors furnish on the basis of information available to them, did contribute to an extent to better estimation of likely revenue during the Budget year. It was, therefore, decided not to do away with this source of esti-
5.	Estimates for the Budget year provided by the Custom Houses do not serve any useful purpose, Customs House should be asked to provide revised estimates of customs revenue and imports for the current year. The Central Board of	

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|---|--|---|
| Excise and Customs may also consider whether the Collector of Customs should not discontinue providing revenue estimates in the present form for the Budget year.
(Para 3.9) | mates altogether. Necessary instructions have, however, been issued to the Collectors to furnish estimates of quantity/value of imports implicit in their revised estimates for the current year and forecasts for the next (Budget) year. | |
| 6 The principal public sector import/export agencies (particularly those mentioned above) should strengthen their present machinery for data collection and should be in a position to provide accurate estimates of actual imports with a maximum time lag of two months. These agencies should also strengthen their system for forecasting of their future import programme. (Para 3.10) | A copy of the Expert Committee's Report has been forwarded to the Administrative ministries and important public sector agencies concerned in the imports into the country and their attention invited to the Committee's observation/recommendations in paragraph 3.10 to 3.15 of the Report for necessary action at their end. | |
| 7 Following the recommendation of the Date Improvement Committee, a short term forecasting cell should be established in the Department of Economic Affairs, which among other things should attempt the task of forecasting of international prices.
(Para 3.15) | A copy of the report has been forwarded to the Department of Economic Affairs and their attention invited to this recommendation for necessary action. | |
| 8 The present system of getting information on actual realisations and actual imports for Custom Houses is adequate and there is no need for further collection of any data for the field formations.
(Para 3.16) | No action. | |
| 9 The new classification (of budgetary sub-heads) constitutes a considerable improvement over the existing classification scheme and should be implemented as early as possible. Later on the residual sub-head should be further reduced to constitute no more than 10 per cent of the likely total import revenue. (Para 3.19). | The revised classification of budgetary sub-heads under import duties has been put into operation from the 1st April, 1975. Review for further sub-dividing the residual sub-head would be under-taken after watching the actual collections thereunder during 1975-76. | |
| 10 The present procedure followed by the Custom Houses for purposes of keeping proper statistical records of actual realisations of customs revenue is satisfactory, and the creation of a Budget Cell in each Custom House for this purpose is not necessary.
(Para 3.20) | No action. | |
| 11 No change is called for in the existing arrangement regarding announcement of import policy.
(Para 3.21) | No action. | |
| 12 The Central Board of Excise and Customs should invite the collectors of customs from the major collectorates to a quarterly review of the actual customs revenue, and likely trend in revenue for the year as a whole (Para 3.22). | The recommendation has been accepted. The first such quarterly review for 1975-76 was made in Calcutta on the 11th August, 1975. | |

- 13 While the modifications suggested would help in improving the present system of forecasting, it would be difficult to estimate with any degree of precision the likely customs revenue in view of the uncertainty relating to our foreign exchange situation as well as fluctuations in international prices. No action.

While the present system with the proposed modifications may increase the probability of the forecast being closer to actuals than is the case now, it is not possible to guarantee that it would lead to accurate forecast of customs revenue (Para 3.23).

- 14 In judging the accuracy or otherwise of forecasts it would be desirable to compare the actual realisation with the budget forecast after eliminating the very obvious cause of the variations between the two. For example, a part of the difference between the budget forecast and the actual realisation may be on account of changes in the rates of customs or excise duties introduced during the course of the year. Obviously, no system of forecasting can adequately provide for likely changes in rates of duty in the mid-year, the need for which may arise either because of the need to raise more revenue during the course of the year or because of the change in the basic economic situation relating to a particular commodity.

(Para 3.24)

- 15 The Central Board of Excise and Customs should give urgent thought to further examination of the possible statistical and economic models for forecasting customs revenue. We must stress that statistical formula mentioned by us do not provide ready answers to the problems but are indicative of the direction in which further work can be instituted. It is our suggestion that for the further prosecution of this work, the Central Board of Excise and Customs should have an Analytical Statistical Budget Forecasting Cell (as distinct from the present type of statistical Compilation Cell) where similar techniques could be tried and improved upon. The Central Board of Excise and Customs should also consider approaching a body like the Indian Statistical Organisation for assistance in working out more refined statistical forecasting techniques. The recommendations have been accepted. Steps are being taken to set up an Analytical Statistical Budget Forecasting Cell on the lines indicated the Committee in the Central Board of Excise and Customs. After the cell has come into position and gained some experience, it will be entrusted with the work of forecasting union excise revenue also.

We do not wish to make any recommendations as to the size and composition of such a cell, for we believe that the Central Board of Excise and Customs could devise the necessary organisational pattern. We do, however, suggest that this cell should be in the charge of an economist/statistician assisted by trained statistical investigators. This cell may have other duties as well, though trying to improve the statistical exercises for forecasting purposes should be its primary term of reference. While on this point and notwithstanding the fact that it may be slightly outside of our terms of reference, we wish to suggest that the Statistical Forecasting Cell so constituted might as well look into forecasting of union excise revenue also, for the Central Board of Excise and Customs is concerned directly with excise revenue as well.

(Paras 4.8 and 4.9)

- 16 Therefore, what we would recommend at this stage is that for the purpose of inclusion in the budget forecast for the next one or two years the present system as refined may be employed. Simultaneously work on forecasting by the statistical method should proceed apace and when sufficient evidence of the greater reliability of these methods is established, this method should be used to supplement the present method for forecasting of revenue.

The recommendation has been noted for necessary action.

If the statistical methods are used for forecasting of total imports and total revenue for budgetary purposes, it would still be necessary to provide estimates of revenue for different import categories. This would have to be done on the basis of informed judgement and we suggest that the Central Board of Excise and Customs should break up the total imports yielded by the statistical method into the required broad categories for purposes of budget presentation on the basis of consultations and discussions particularly with the Department of Economic Affairs which is the relevant Department for the purposes of programming of next year's imports.

(Paras 4.10 & 4.11)

APPENDIX II

Conclusions/Recommendations

Sl. No.	Para No.	Ministry concerned	Recommendation
1	2	3	4
1	1.29	Ministry of Finance (Department of Revenue and Banking)	<p>In 1973-74, Customs receipts went up to Rs. 996 crores from Rs. 856 crores in 1972-73, the increase being in line with the upward trend noticeable since 1969-70. The Ministry of Finance attributes this phenomenon to the rise in the value of imports as well as of the rates of duty brought about by budgetary changes. It appears, however, that the Ministry cannot quantify the increase in receipts attributable either to budgetary changes or to the rapid change in international prices during the relevant years. Whether the latter phenomenon is only a temporary phase or something more than that seems yet too early for determination. Besides, in Government's view, administrative steps adopted in recent years, including preventive detention and a campaign against smuggling operations, have toned up revenue collection, though the precise effect of such steps cannot yet be estimated quantitatively.</p>

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Ministry of Finance
(Deptt. of Revenue
& Banking)

The Committee feel that it would be useful if the various factors which contributed to the increased revenue are analysed with a view to finding out—

- (i) How far the budgetary changes contributed to the increased collections;
- (ii) to what extent the international price inflation has boosted the revenue and whether it is a temporary phenomenon;
- (iii) how far the increase in collection is due to the tightening up of the administrative machinery and in what respect, and
- (iv) how far the increase in collection is due to avoidably imprecise estimates of collection of revenue.

The Committee desire that this review should be completed in six months and the results intimated to them.

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1.31 Ministry of Finance
(Department of Revenue
and Insurance)

Department of Economic
Affairs

In pursuance of the recommendation contained in paragraphs 6.1.(1) of their 89th Report (5th Lok Sabha), Government had in January, 1974 appointed a Committee to examine the question of the discrepancy between budgetary forecasts and actual realisation with a view to more accurate and scientific forecasting of resources. Two of the recommendations of the Expert Committee related to (1) strengthening of the existing machinery in the principal public sector

import/export agencies for data collection and for forecasting their future import programme, and (ii) establishment of a short-term forecasting cell in the Department of Economic Affairs, entrusted, *inter alia*, with the task of forecasting international prices. These have been referred to the administrative Ministries and public sector agencies concerned for necessary action. The Committee have been informed by the Department of Revenue and Insurance that the Central Board of Excise and Customs will rely on the departments or agencies of the Government which are most directly concerned with planning of imports as well as foreign exchange budgeting for necessary data and marketing intelligence for the purpose of forecasting of customs revenue. The Committee attach much importance to these recommendations, particularly in the context of the recent inflationary trends in the international prices. The Committee have in para 1.12 of their 203rd Report (5th Lok Sabha) stressed the importance of a coordinated approach to this entire problem so that positive steps can be taken expeditiously to streamline and refine the existing systems for budgetary forecasts. The Committee have also suggested that the Department of Economic Affairs which is most closely involved in the matter, should play a leading role in this regard. The Committee desire that immediate action should be taken in this direction and made known to them.

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4.

I. 32

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The Committee note that in pursuance of another recommendation of the Expert Committee it was decided to constitute a regular Budget Forecasting Cell to begin with, to handle the work relating to customs budget forecasting. Later this Cell after some experience

was to be expanded and take up the work of excise forecasting also. The sanction for necessary additional staff of sufficient economic/statistical experience has been issued. The Committee expect that the Cell will now be set up without further delay. The Expert Committee had suggested possible statistical and econometric models for forecasting customs revenue. It has been stated that the possible statistical models would be further examined as soon as the Cell is constituted and efforts would be made to devise a workable model so as to achieve the objects of forecasting customs revenue on a more scientific and dependable basis. The Committee wish that this examination is completed soon and the progress intimated to them.

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I. 33

Ministry of Finance
Dept. of Revenue
& Insurance

Dept. of Economic
Affairs

In paragraph 6.1(1) of their 89th Report, the Committee had observed that if any unforeseen factors occur in the course of the year, such as a sudden spurt in imports, Parliament should be immediately apprised of it by Government explaining the unforeseen variation in estimates, so that Parliament could satisfy itself that variation had occurred inspite of Government's effort to ensure accurate estimating. In their reply the Ministry of Finance (Department of Economic Affairs) have stated that as in all other cases a review of the Revised Estimates of collections of Customs revenue during the year, in the light of the various factors developing subsequent to the presentation of the Budget Estimates for the year, is submitted to Parliament along with the Budget Estimates for the next year. Such reports, however, based as they are on the fluctuations over short

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periods during the course of the year, may not be adequate and at any rate would not be indicative of the picture likely to emerge eventually for the year as a whole because of the many and rapidly changing factors which influence collections in unpredictable ways from time to time. The Committee, thus, are not satisfied with the Ministry's reply. The Committee recommend that Parliament should be contemporaneously informed about whatever major unforeseen factors occur during the course of the year and have an impact on revenue collection. That is a worth while exercise which Government should not grudge undertaking.

6

1.40 Ministry of Finance
(Department of Revenue
and Banking)

Under the head "Miscellaneous" several types of receipts are accounted for by the Customs Department. On the basis of *ad hoc* reports received from the Collectorates, the Ministry of Finance have furnished to the Committee a break-up of miscellaneous receipts separately for fines and penalties, sale proceeds of confiscated goods and other receipts. The Committee had desired to be furnished with separate figures of fines and penalties recovered from foreign nationals and Indian smugglers. It is learnt that attempts were made to collect the information from the various Collectorates of Customs and Central Excise, but it was found not possible to get the information as the figures were not separately maintained. The Committee are surprised that the Board took more than six months to collect only the figures showing the break-up of miscellaneous receipts from the various Collectorates, and even then complete information was not made available to the Committee. The Committee suggest that the statistical organisation of the Board should maintain figures of

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			<p>the various items included in the miscellaneous receipts. For this purpose necessary reports may be called for from the Collectorates. In respect of fines and penalties separate figures should be maintained in respect of recoveries from foreign nationals and Indians, so that these figures could give an idea about the implication of the foreign nationals in economic crimes.</p>
7	I.41	<p>Ministry of Finance (Deptt. of Revenue & Banking)</p>	<p>In the Audit Paragraph, receipts from fees, fines, forfeiture and miscellaneous penalties have been shown as Rs. 6,18,644. But according to the break-up of miscellaneous receipts now furnished by the Ministry of Finance, fines and penalties amounting to Rs. 320 lakhs were collected during the year 1973-74. It is not clear to the Committee why at the time of verification of the Audit Paragraph, the Ministry of Finance did not offer the comment on the figure of 6,18,644 shown as receipt from fees, fines, forfeiture and miscellaneous penalties. The Committee desire that even at this late stage it should be possible for the Ministry of Finance to reconcile the figures.</p>
8	I.42	—do.—	<p>Incidentally, the Committee find that according to the information furnished to them on 18th August, 1975, the net realisation under miscellaneous receipts was Rs. 4.43 lakhs during 1969-70, Rs. 10.91 lakhs during 1970-71 and Rs. 11.50 lakhs in 1971-72 but according to the information subsequently furnished on 18th February, 1976 the total miscellaneous receipts (Gross) amounted to Rs. 671</p>

lakhs in 1969-70, Rs. 1206 lakhs in 1970-71, Rs. 1261 lakhs in 1971-72. The Committee would like to know the reasons for such marked variation in the figures.

9. I.56 —do—

The Committee find that on account of mis-classification, re funds and drawbacks for the year 1973-74 were inflated to the extent of Rs. 24.79 crores as a result of an adjustment made to rectify the double credit to the extent of this amount of revenue collected during the years 1970-71 and 1972-73. The actual position is that the net customs revenue realised during the year 1970-71 should have been shown less by Rs. 22.82 crores and for 1972-73 by Rs. 1.97 crores and the net revenue collection for 1973-74 should be higher to the extent of Rs. 24.79 crores. The Committee take very serious view of the incorrect position in this regard reported to Parliament during these years. Such inadvertence amounts to a grave dereliction of duty on the part of responsible personnel.

10. I.57 —do—

The double credit of the amounts occurred because of mis-classification of an amount of Rs. 22.82 crores representing the Customs duty on gold imported in 1970-71 from USA in connection with payment of subscription to International Monetary Fund and customs dues collected at the Bombay Airport amounting to Rs. 1.97 crores during 1972-73. The Committee note that customs dues received at the Bombay Airport were misclassified by the Airport Customs after a revised procedure was adopted in February, 1971 according to which the duty and other collections made at the Airport instead of being sent to the Custom House are remitted direct to the State Bank of

India. It is regrettable that the revised procedure did not specifically indicate the proper account head to be indicated in the challan for remitting the amount collected at the airport. This led to collections being wrongly classified as revenue receipts under the head "I—Customs" *instead* of Customs Remittances with the result that these amounts were also included by Custom House in their monthly cash account statement to the Accountant General as remittances to the Reserve Bank. The Committee are unhappy that such misclassification continued unchecked till February, 1974.

11. 1.58 **Ministry of Finance
(Department of Revenue
and Banking)**

The double credit of the amounts in the accounts could have been detected during the respective financial years if the Bombay Custom House had followed the proper system for reconciliation of the departmental figures with the accounts figures. The mistake remained undetected till February, 1974 when it came to the notice of the Accountant General (Central), Bombay, who made an adjustment in the accounts for 1973-74. Only after the Committee took up examination of the matter, did the Central Board of Excise and Customs issue instructions on 18th September, 1975, requiring monthly reconciliation of revenue receipt figures with accounts figures. The Committee deprecate this delay and urge the Board to keep a close watch over the action taken by the Custom Houses on these instructions and ensure that the necessary reconciliation is done scrupulously every month.

12. 1. 59 —do—

Another unsatisfactory feature of this case is that when the draft Audit Paragraph was sent to the Ministry of Finance for confirmation, the Ministry in their reply did not comment at all on this inflated figure of refunds and drawback for the year 1973-74. However, the Central Board of Excise and Customs later asked the Custom Houses to go into the reasons for the increase in the figure of refunds and draw-backs for the year 1973-74. Unfortunately, a copy of this letter was not sent at the same time to Audit who could not, therefore, add a suitable footnote to the relevant Audit Paragraph. The Committee suggest that in future, where the figures appearing in the draft Audit Paragraph appear to be doubtful and need verification, the Board should immediately inform Audit about the position.

13. 2. 14 —do—

The Committee are surprised that in this case the Custom House did not levy countervailing duty on "immersion coolers" and "milk receiving and cooling units" on the ground that these units being not of storage type were not covered by Tariff item 29A of the Central Excise Tariff, and secondly, that these were not imported as ready assembled units. These grounds cannot be sustained since the description of item 29-A covers all sorts of refrigerators and air-conditioning machinery. Besides, while it may be that for assessment, the units should be ordinarily such as can be offered for sale as ready assembled units, it does not necessarily follow that it should always be transported in the assembled condition. The Committee are of the view that there was hardly any scope for doubt in levying countervailing duty.

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14.	2.15	Ministry of Finance (Department of Revenue and Banking)	<p>A more serious aspect of this case is the inordinate delay of seven years in taking the final decision after Audit had raised its objection and called for relevant details, catalogue etc. in July 1967. Such information was furnished only in February, 1971, and Audit reiterated that countervailing duty under item 29A(1) of the Central Excise Tariff was leviable. However, it was only after long delay, in January 1974, that the Conference of Collectors finally decided in favour of the view taken by Audit. The Committee cannot accept the explanation given for this unconscionable delay, namely, that the file had been misplaced in the Custom House. The Committee were, however, informed that the Collectorate has been asked to proceed against the officers responsible for delay the matter. It is extraordinary, indeed, that it took 4 years to get the papers forwarded to Audit and 7 years to have the matter placed before the Collectors' Conference. Such default does appear to be egregious and the Committee would gravely urge fixation of responsibility in the matter and immediate intimation of action taken on this issue.</p>
15.	2.16	—do—	<p>The Committee are anxious that at the time of audit, all supporting documents should be made available alongwith the Bills of entry. The Committee desire that necessary instructions in this regard should be issued by the Central Board of Excise and Customs.</p>
16.	2.17	—do—	<p>The Committee also suggest that guidelines should be laid down by the Board regarding the type of cases which should be re-</p>

ferred to the Collectors' Conference so that the multiplicity of references, not always warranted, cannot be an excuse for Collectors avoiding the responsibility of taking prompt and principled decision.

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2.18

—do.—

In this case, Internal Audit had not made any observation at the time of audit of the bills of entry. Subsequently, while dealing with the objection raised by the Customs Revenue Audit Department, Internal Audit expressed the view similar to that held by the Collectorate that the milk-coolers in question were not of shortage type and therefore not covered by item 29A of the Central Excise Tariff. In their 89th Report (5th Lok Sabha) the Committee (1972-73) had recommended that the Internal Audit Department should be placed under a separate Director directly under the Board so that it could be free from local influence and perform its functions without fear or favour. On this point only an interim reply was sent to the Committee (1973-74) when they presented the Action Taken Report. However, in a reply now furnished to the Committee, the Ministry of Finance have intimated that it was proposed to set up a Directorate of Audit, as a part of a combined Directorate of Inspection and Audit for the Customs Department to be stationed in Delhi, and as far as the field organisation was concerned, to continue the present arrangement of keeping the Internal Audit Department of the Customs under the control of the respective Collectors of Customs. These proposals, it is learnt, have been approved in principle by the Minister of Finance. The Central Board of Excise and Customs appear to feel that Collectors should not be deprived

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of the services of Internal Audit for exercising their supervisory functions. Internal Audit is felt, as it were, to be the eyes and ears of the Collector and to take away this vital instrument from his control would weaken his functioning considerably. The Directorate of Audit would, in that case, be responsible for watching the over-all performance of the Internal Audit organisation in the Custom Houses, for examining the staffing position of the audit parties, and generally, for giving suitable directions to the Collectors. The Committee, however, feel that while Government have done well in intending to set up a Directorate of Audit, a further step should have been taken in the direction of the independence of Audit for which the Committee have pleaded earlier. The Committee thus would reiterate their earlier recommendation that in order to keep the Internal Audit free from all possibility of narrow, local influence and perform its functions truly independently, it should be directly placed under the Director of Audit.

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The Committee had also suggested in their 89th Report (5th Lok Sabha) that it should be examined whether the staff working in the Internal Audit Department should not be formed into a separate cadre with adequate career prospects with the Internal Audit Department so that the members working there may really feel free to report on the mistakes found in the documents of the Custom House. It has been stated by the Ministry in their

reply that it is not possible to set up a separate cadre for auditors for the reasons that firstly the cadre would be very small and auditors may not have reasonable chances of promotion and secondly auditors will not have any field experience and will be handicapped in their work.

19 2.20 —do.—

The Committee feel that these difficulties are not insurmountable. The Committee had recommended the pattern followed by the Railways for the internal check of their transactions to be adopted for the Customs Department. The Committee suggest that this pattern should be carefully studied with a view to adopting it on the customs side.

20 3. 51 —do—

The Audit Paragraph refers to 133 cases of seizure of contraband gold pertaining to the period from January 1970 to June 1974 involving a total value of Rs. 14.74 crores. According to the information furnished by the Ministry, in 72 of the cases prosecution had been launched, in 12 cases prosecution was under consideration, 26 cases were pending adjudication and in 20 cases goods remained unclaimed. Out of 72 cases in which prosecution was launched 30 cases had resulted in conviction, two in acquittal, while the remaining cases are still pending in the courts. The Committee are surprised that in as many as 12 cases of import of contraband gold the question of launching prosecution was still under consideration. Seizure of gold should invariably be followed by very prompt action, for delay defeats the very purpose of the law. The cases pending with the

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			Courts should be vigorously pursued, and a report sent forthwith to the Committee.
21	3.52	Ministry of Finance (Department of Revenue and Banking)	As stated earlier, 26 cases are pending adjudication, while in 20 cases the goods remain unclaimed. The Committee disapprove of such delay in adjudication after seizure of contraband gold. Why the 20 cases in which goods are unclaimed should be still pending/ should be explained.
22	3.53	—do.—	The Committee understand that the delay in adjudication is to some extent due to the legal process required to be followed and that sometimes the position is aggravated by the dilatory tactics adopted by the parties concerned. The Ministry is not in favour of any time limit, however, reasonable, being fixed for finalisation of adjudication as that might, in its view, result in the cases being decided in slip shod manner.
23	3.54	—do.—	The Committee asked whether any change in law was felt necessary to reduce delay in adjudication. The Board explained that it would be salutary if there was some system by which the parties could be precluded from having as much opportunity as they have at present to delay proceedings. If, however, full opportunity was not given writ petitions might be filed under Article 226 of the Constitution. In such circumstances, the Board was examining how the

writ jurisdiction in some of these cases could be taken away. The Committee expect that this examination will be expedited and the results made known. It is particularly urgent that the law's delays should be eliminated at least in adjudication of cases relating to smuggling.

24 3'55 -do-

While conceding that the delay in adjudication should be minimised, the Ministry appeared to be of the view that this matter should rather be left to heightened administrative check and inspection. It was expected that with a strengthened staff work could be done more speedily and efficiently. The Ministry also intimated that one reason for delay in adjudication proceedings was that senior officers were under severe pressure and could not devote as much time and attention as was needed.

This does not appeal to the Committee to be an insurmountable difficulty. Pending a radical solution of the problem, these matters should be intelligently tackled and the Central Board of Excise and Customs should step up scrutiny of pending cases and ensure quick disposal since only a proportion of it have peculiar complications.

25 3'56 Ministry of Home Affairs

The Committee have learnt that in order to avoid delays in courts, it has been decided in principle to establish special courts for trial of customs offences. The Committee welcome the idea and urge that speedy action is taken in this matter.

26 3'57 Ministry of Finance
(Deptt. of Revenue &
Banking)

The Committee are gravely concerned about the unconscionable delay in adjudication of cases of seizure of goods (other than

gold) in various Collectorates of Customs and Central Excise. To give an example of the position, the Audit Paragraph had pointed out that in Calcutta Custom House alone in July 1974, out of 3,462 cases of seizures pertaining to the years 1968, 1969, 1970 and 1971, 364 cases were still pending. As on 1st February, 1975, 314 cases had not been adjudicated or in which disposal orders had not been passed. However, during evidence in September, 1975, the Committee were informed that only 25 of those cases awaited adjudication and/or post-adjudication disposal. The fact that the Custom House could dispose of 289 old cases after the Audit Paragraph indicates that serious efforts had not been made earlier in this direction.

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3.58

Ministry of Finance
(Department of
Revenue and Banking)

According to the information furnished to the Committee pertaining to the years 1972, 1973 and 1974 as many as 4378, 7970 and 9005 cases respectively were pending on 30th September, 1975 in most of the Customs Houses taken together for want of adjudication or disposal orders. The value of goods other than gold seized during the period 1969-70 to 1973-74 and pending disposal as on 31st March, 1974 in some Collectorates of Customs and Central Excise about which the Committee had information is very large. In this connection, mention may be made of the goods valued at Rs. 11,47,19,827/- pending disposal in the Collectorate of Customs (Prev.) Bombay, Rs. 67,09,800 in Collectorate of Customs, Calcutta and Rs. 44,84,838 in Collectorate of Central Excise, Calcutta. The Committee are disturbed by such figures and would require the Central Board of Customs and Excise

to examine the matter earnestly and prevent such accumulation in future.

28 3'59 -do-

Under the existing procedure the confiscated goods are not disposed of till all the entire process of adjudication, appeal and revision petition etc. has been completed. Only in certain types of cases namely, (i) where goods are likely to deteriorate or perish, (ii) where the recurring cost of up-keep as of animals, is disproportionately high, and (iii) where arrangements for storage cannot be provided except, as in the case of dangerous commodities, at disproportionately high cost the confiscated goods can be disposed of earlier. The Committee learn that Government are considering whether legal powers may be taken for disposal of confiscated goods even before the disposal of appeals, revision petitions etc. The Committee feel that Government should have made these exercises much earlier, and urge rapid finalisation of the issues involved.

29 3'60 —do.—

It was admitted during evidence that the Board had already noticed that for identical goods, there were wide variation in the prices fixed by different Collectorates. The Committee learnt that instructions had been issued to Collectors to furnish report list of prices fixed by them for all consumer goods of well-known makes to the Directorate of Inspection whose duty was to analyse such reports and bring to the notice of the concerned Collectorates any wide variation in prices fixed by them.

30 3'61 -do-

The Committee are anxious that there should be uniformity in valuation of identical goods by the various Excise and Customs

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Collectorates and that the prices fixed should be realistic and comparable with market prices. This matter should receive the constant and vigilant attention of the Board.

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3'62

Ministry of Finance
(Dept. of Revenue &
Banking)

The system of sale of confiscated goods through Cooperative Societies hitherto in vogue has been under review by Government. In August, 1975, instructions were issued to all the Collectors of Customs and Central Excise that confiscated watches could be sold as a first priority to the Armed Forces, Central Reserve Police, Border Security Force and Para-Military Forces upto their full requirements, and if any were left over they could be sold to the National Cadet Corps Formations, Police Canteens and the Home Ministry Cooperative Society. In the case of calculating machines the instructions were that they should be sold to Government offices in the first instance and then to the Universities and similar institutions. Similarly, Electronic goods were to be sold to Schools, Universities, Government offices etc. in the first instance and if not taken up by them, sold to the National Cadet Corps Formations and other organisations. Regarding confiscated textiles/fabrics the Collectors were directed in October, 1975 to dispose them of in accordance with the existing orders after escalating the prices by 50 per cent over the price for similar goods prior to June, 1975, provided that the price refixed was not more than 90 per cent of the prices of similar goods manufactured in India. The prices, it ap-

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pears, are being further reviewed. The Committee have also been informed that the question of export of confiscated textiles through the State Trading Corporation is being studied. The Committee wish that early decision in this matter which is not too complex should be taken by Government. In the meantime, necessary safeguards should be enforced so that misuse of the present provisions is prevented and there is no veiled trading, by the backdoor as it were, of smuggled goods.

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3.63

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According to the Audit Paragraph, the stock taking reports (August, 1974) in Calcutta Custom House revealed that in 439 cases the seized goods were not physically there and the Master Register did not also bear any indication of the sale receipts thereof having been deposited to the Government account. During evidence the Committee were informed that these items had been actually disposed of but the vouchers could not be entered in the books on account of unusual rush of work. Subsequently, it seems, the vouchers did get entry in the books, and the officer involved in the matter had been suitably dealt with for the delay in entering the vouchers. The Committee are unhappy at such glaringly defective maintenance of store accounts in the Calcutta Custom House.

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The Committee recall that in paragraph 2.108 of their 44th Report (3rd Lok Sabha), it had been recommended that correct accounting procedures should invariably be followed so that malpractices could be checked in time. In pursuance of this recom-

- mendation, the Directorate of Inspection were required to keep a close watch on the procedures and carry out inspections from time to time. The Committee are anxious that this task should be seriously undertaken and competently performed.
- 33 3.64 Ministry of Finance
(Dept. of Revenue & Banking)
- It has come to the notice of the Committee that there has hardly been any uniformity in the procedures followed by different collectorates in maintaining correlation between the registers kept for recording seizures and disposal of confiscated goods, but that Instructions have been issued by the Board to ensure uniformity in this regard. The Committee consider that the correlation and reconciliation between the entries in the Master Sheet, Inventory register and Cash Memos of disposed goods is essential and would ask the Directorate of Inspection to keep it seriously in mind. §
- 34 3.65 —do.—
- During a visit to Custom Houses at Delhi, Calcutta, and Madras, it was found that there was delay in disposal of seized vehicles which were often kept exposed to the vagaries of weather. Thus inevitably reducing their disposal value. The Committee are surprised that a proposal made as far back as in 1970, for putting up a shed in the Custom House, Delhi has not yet been implemented. This is something which can be done at once. The Committee urge also that the adjudication of cases and the disposal of confiscated vehicles should be expedited by a little special effort.

This is a clear case of contravention of Government orders (December, 1972), according to which, confiscated rayon and other synthetic yarn were required to be sold in auction by the department directly to Weavers' Association/Cooperatives and certified users without any discount. Under earlier instructions of the Central Board of Excise and Customs of May, 1972, there had been, it appears, a practice in Bombay Custom House to sell the yarn to cooperative societies at market price less 10 per cent. The Committee are unhappy that this practice was continued in spite of the subsequent orders issued in December, 1972. The Collectorate of Central Excise, Bangalore also followed the wrong practice prevalent in Bombay Collectorate, on the parties concerned producing copies of Cash Memos issued by the Collectorates of Customs and Central Excise, Bombay, without applying their mind to such cases and glibly overlooking that the practice contravened the orders of the Board issued in December, 1972. This resulted in loss by way of discount amounting to Rs. 74,354 on the sales during the period from March to November, 1973. The Committee wish that responsibility should be fixed for such contravention of the Government's categorical orders issued in December 1972, both in the Bombay and Bangalore Collectorates.

The Committee note, however, that the orders of the Board issued in December 1972 were subsequently modified in May, 1974, to the effect that such yarn could be sold to Weavers' Association Cooperatives on the basis of the market price minus 10 per cent

discount. But no satisfactory procedure appears to have been followed by the Bangalore Collectorate to ascertain the market price for the identical goods. According to the figures furnished by Audit, the prices obtained in auction by the neighbouring Cochin Customs were considerably higher than those charged by the Bangalore Collectorate from the Handloom Cloth Manufacturers Associations. The price of Mamilion Gold Yarn was Rs. 44.50 at Cochin Customs House *vis-a-vis* Rs. 17 obtained in the Bangalore Collectorate during the period July-September 1974. This is a wide disparity, and the Committee do not countenance the view urged on them that it would be unrealistic to compare the auction price in the Cochin Collectorate and the market price followed in the Bangalore Collectorate. Even granting that auction and market prices might be somewhat different, the Committee do not consider that the gap could be so wide. It may be noted, for whatever it is worth, that the prices fixed by the Bombay and Bangalore Collectorates were somewhat comparable. Indeed, this whole matter of whether the market prices in the Bangalore and Bombay Collectorates were properly fixed should be looked into. The Committee are of the view that the Department might itself conduct an auction, and on the basis of such experience as well as other circumstances of which they can take cognisance, evolve a fairly foolproof procedure in this regard.

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Ministry of Finance
(Deptt. of Revenue
& Banking).

This is a case of delay in the disposal of smuggled goods seized after a strenuous chase by a Customs Patrol Party. It appears that the goods were thrown on to the sea and were naturally somewhat damaged in the process. The Department unfortunately sat on them for about 10 months before they could be disposed of. The Committee wish the Board to examine steps for quick disposal of similarly damaged goods, at least before the deterioration goes too far. Powers could be delegated to the officers for rapid disposal of such damaged goods particularly when they are unclaimed. It should be ensured also that the price of such damaged goods at the time of seizure and of auction is fixed realistically.

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