

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

(FIFTH LOK SABHA)

TWO HUNDRED AND THIRD REPORT

CUSTOMS RECEIPTS

DEPARTMENT OF REVENUE & INSURANCE

[Action taken by Government on the recommendations
contained in the 135th Report (Fifth Lok Sabha)]



**LOK SABHA SECRETARIAT
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PUBLIC ACCOUNTS COMMITTEE
(1975-76)

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22. Shri Rabi Ray

SECRETARIAT

Shri H. G. Paranjape—*Chief Financial Committee Officer.*
Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Two Hundred and Third Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their Hundred and Thirty-Fifth Report on Chapter I of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I, Indirect Taxes.

2. On the 3rd June, 1975, an Action Taken/Sub-Committee consisting of the following Members was appointed to scrutinise the replies from Government in their earlier Reports:—

Shri H. N. Mukerjee— <i>Chairman</i>	}	<i>Members</i>
Shri V. B. Raju— <i>Convener</i>		
Shri Priya Ranjan Das Munshi		
Shri Darbara Singh		
Shri N. K. Sanghi		
Shri Rabi Ray		
Shri Raja Kulkarni		
Dr. K. Mathew Kurian		

3. The Action Taken Sub-Committee of the Public Accounts Committee (1975-76) considered and adopted this Report at their sitting held on the 27th February, 1976. The Report was finally adopted by the P.A.C. on the 8th March, 1976.

4. 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 the Appendix to the Report.

5. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Comptroller and Auditor General of India.

NEW DELHI;
March 9, 1976.
Phalgun 19, 1897 (S).

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

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 135th Report (Fifth Lok Sabha) on paragraphs relating to Customs Receipts included in Chapter I of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes. The 135th Report was presented to the Lok Sabha on 25th April, 1975.

1.2. Action Taken Notes have been received from Government in respect of 30 out of the 31 recommendations/observations contained in the Report. In regard to the remaining recommendation contained in paragraph 1.55 of the Report (Sl. No. 10 of the Appendix to the 135th Report), the Committee had been informed by the Department of Revenue and Insurance that the Ministry of Shipping and Transport had been asked on 17 July, 1975 to take action thereon as it related to the Cochin Port Trust. The Committee had not, however, been informed of the action, if any, taken in this regard by the Ministry till the finalisation of this Report.

1.3. It is distressing that in spite of repeated exhortations, Ministries are still remiss in informing the Committee of the action taken or proposed to be taken on their recommendations within the prescribed period of six months. In the present case referred to above, the Committee are yet to be told of the action taken on the recommendation contained in paragraph 1.55 of the 135th Report, though nearly ten months have elapsed since the presentation of the Report, and the attention of the Ministry of Shipping and Transport had also been specifically drawn to the Committee's recommendation by the Department of Revenue and Insurance as early as July, 1975. This is not the first occasion when there has been a default by the Ministry in this regard. It would, therefore, appear that adequate attention is not being paid by the Ministry to the processing of the Committee's recommendations. The Committee take a serious view of this default and desire that the reasons therefor should be gone into and appropriate action taken. The current modalities for the processing of the Committee's recommendations should be reviewed and suitable remedial measures adopted. The action taken by the Ministry in the present case particularly should be intimated to the Committee forthwith.

1.4. The Action Taken Notes received from Government have been categorised as follows:

- (i) *Recommendations/observations that have been accepted by Government:*
Sl. Nos. 4, 8, 9, 11, 20, 21, 22, 24, 27, 28, 29 and 31.
- (ii) *Recommendations/observations which the Committee do not desire to pursue in the light of the replies of Government:*
Sl. Nos. 14, 15, 17, 18 and 19.
- (iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration:*
Sl. Nos. 1, 2, 3, 12, 13, 23, 25 and 26.
- (iv) *Recommendations/observations in respect of which Government have furnished interim replies:*
Sl. Nos. 5, 6, 7, 16 and 30.

1.5. The Committee expect that final replies, duly vetted by Audit, in respect of those recommendations/observations to which only interim replies have so far been furnished will be submitted to them without further loss of time.

1.6. The Committee will now deal with the action taken by Government on some of their recommendations/observations.

Variations between budget estimates and actuals. (Paragraphs 1.21 and 1.22—Sl. Nos. 1 and 2)

1.7. Reviewing the actual realisation of Customs duties during the year 1971-72 *vis-a-vis* the budgetary forecasts in this regard, the Committee, in paragraphs 1.21 and 1.22 of the Report, had observed:

“1.21. The Committee are concerned to find that during the year 1971-72 the variation between the budget estimates (Rs. 534 crores) and actuals (Rs. 695.67 crores) of the Customs Receipts amounted to Rs. 161.67 crores which work out to 30.28 per cent. In fact the percentage of variation is the highest recorded during the last 10 years. The two post-budget levies *i.e.* regulatory duty of customs imports and increase in export duty on carpet backing and other hessians accounted for variation only to the extent of about Rs. 24 crores. The bulk of the variation was due to larger imports than expected in respect of petroleum products, iron and steel and some other commodities, *viz.*, machinery, motor vehicle parts, chemicals and other

industrial raw materials and fertilizers. Such a wide gap between the budget estimates and actuals points to the conclusion that the present system of estimating receipts of customs duty is seriously defective and undependable and that this has not even been realised shows lack of efficiency at the top."

"1.22. In pursuance of the recommendation made by the Committee in paragraph 6. 1(c) of their 89th Report (Fifth Lok Sabha), Government appointed an Expert Committee in January, 1974 to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue. The Expert Committee in the report submitted in June, 1974 have expressed the view that a system which seeks to take as its quantitative base the past import levels of a large number of commodities which do not display any reliable trend and build on it qualitative judgement which again depends on hunches and informed guess work at various levels of estimation is not calculated to yield satisfactory results. The Expert Committee have suggested the use of a statistical method for forecasting customs revenue to provide a more accurate forecast of likely level of total imports in the budget year as well as the likely level of customs revenue. The Expert Committee have suggested that the Central Board of Excise and Customs should give urgent thought to further examination of possible statistical and econometric models for forecasting customs revenue. The Committee desire that the necessary follow up action on the recommendations of the Expert Committee should be expedited and the progress reported to them."

1.8. In their Action Taken Note dated 18th August, 1975, the Department of Revenue and Insurance have, *inter alia*, stated:

"Customs revenue is largely from import duties and this is, in the main, governed by a number of imponderables such as availability of foreign exchange, fluctuations in international prices, changes in import composition depending on industrial production in the country and the like.

The Expert Committee appointed by the Government on 7th January, 1974, to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue, submitted its report in June, 1974. In its appraisal of the present system of estimating receipts of customs duties, the Committee has observed in para 3.1 of its report that a great deal of care and effort is taken at every level in presenting as reasonable and

as accurate a forecast of customs revenue as possible each year and that considerable amount of refinement and improvements have been brought about in the methodology and the procedures in recent years. However, given the well-known imponderables in the situation, such as fluctuations in international prices, constraints of foreign exchange availability, changes in import composition, and the like, even the great care that is taken has not resulted in a reasonably accurate system of forecasting. In spite of the basic and inherent limitations of the present system, referred to in the report, the Committee has not suggested its complete elimination but has recommended that simultaneously work on forecasting by the statistical method should proceed apace and when sufficient evidence of the greater reliability of the statistical method is established, this method should be used to supplement the present method for forecasting of revenue and that for the next one or two years till a suitable statistical model can be devised, the present system as refined may continue to be employed."

1.9. The following statement, furnished to the Committee in this context by the Department, indicates the follow-up action initiated on the recommendations of the Expert Committee, appointed in January, 1974, to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue:

Sl. No.	Recommendation	Action taken by the Government
1	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).	<i>Paras 3.8 and 3.9</i> : Although the Expert Committee had observed in para 3.9 of its report that the estimates for the Budget year provided by the Custom Houses did not serve any useful purpose, it was felt that these estimates which the Collectors furnished 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 estimates 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.
2	Estimate for the Budget year provided by the Custom Houses do not serve any useful purpose. Customs Houses should be asked to provide revised estimates of customs revenue and imports for the current year. The Central Board of 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).	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 observations/recommendations in paragraph 3.10 to 3.15 of the Report for necessary action at their end.
3	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 report has been forwarded to the Department of Economic Affairs and their attention invited to this recommendation for necessary action.
4	Following the recommendation of the Data 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).	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 residuary sub-head would be undertaken after watching the actual collections thereunder during 1975-76.
5	The new classification (of budgetary sub-head) 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 recommendation has been accepted. The first such quarterly review for 1975-76 was made in Calcutta on the 11th August, 1975.
6	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).	

5

Sl.
No.

Recommendation

Action taken by the Government

7 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 causes 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).

The observation of the Expert Committee has been brought to the notice of the Comptroller and Auditor General of India.

8 The Central Board of Excise and Customs should give urgent thought to further examination of the possible statistical and econometric models for forecasting customs revenue. We must stress that statistical formulae 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 Institute and/or the Central 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 by 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 exercise 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 & Customs is concerned directly with excise revenue as well. (Paras 4. 8 and 4. 9).

- 9 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 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 methods 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 & 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 and 4. 11).

1.10. The Committee have on many occasions sought to impress upon Government the need for a more scientific and realistic formulation of the budget proposals so that the widening gap between the estimates and actuals could be reduced. As Expert Committee, appointed in January, 1974 in pursuance of the Committee's recommendation contained in paragraph 6.1(i) of their 89th Report (Fifth Lok Sabha), to suggest ways and means of achieving a more accurate and scientific forecasting of Customs revenue, had, inter alia recommended, as early as June, 1974, the use of statistical methods for the purpose and had wanted also the establishment of an Analytical Statistical Budget Forecasting Cell in the Central Board of Excise and Customs. The Committee are concerned that there has been no final decision in this regard even after the lapse of a considerable time. This recommendation of the Expert Committee should not be too difficult to implement, and the Committee trust that the Cell would be set up without further delay and that the annual budgetary exercises would be made on a more meaningful basis.

1.11. The Expert Committee had also suggested that the Central Board of Excise and Customs should consider approaching the Indian Statistical Institute and/or the Central Statistical Organisation for assistance in working out more refined statistical forecasting techniques. The Committee would like to be informed of the follow-up action, if any, taken in pursuance of this suggestion.

1.12. The Committee note that two other important recommendations of the Expert Committee relating (i) to the strengthening of the existing machinery in the principal public sector import/export agencies for data collection and for forecasting their future import programmes, and (ii) to the establishment of a short-term forecasting cell in the Department of Economic Affairs which should, inter alia, attempt the task of forecasting international prices, have been referred to the administrative ministries and public sector agencies concerned for necessary action. While the Committee naturally expect to be apprised of the action taken in this regard by the relevant agencies, they would also stress 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 would suggest that the Department of Economic Affairs which is most closely involved in the matter, should play a leading role in this regard.

Impact of Regulatory duty of Customs (Paragraph 1.23—Sl. No. 3).

1.13. Examining the impact of the regulatory duty imposed by Government to restrain imports from abroad, the Committee, in paragraph 1.23 of

the Report, had observed:

“A significant factor which came to the notice of the Committee was that with a view to regulating the quantity of goods imported from abroad and for exercising restraint on imports, the Government took powers from Parliament to impose regulatory duty of customs first in the Finance Bill, 1963 and a similar provision has continued to be made in subsequent Finance Bills on year to year basis. The provision was invoked only on 17th February 1965, when regulatory duty at a flat rate of 10 per cent of the value of all imports with the exception of foodgrains, fertilisers, pesticides, books, etc. was imposed. It was withdrawn with effect from 6-6-1966 consequent on devaluation, as it was considered that devaluation itself would **restrain imports which was not correct.** The levy was again imposed on 13th December, 1971 because of the need to put a restraint on imports in the context of war with Pakistan. The Committee, however, note that the actual realisation of regulatory duty was to the extent of Rs. 14 crores as against the anticipated revenue of Rs. 12 crores during the year 1971-72. If the enabling provisions were intended to impose a restraint on imports, the realisation should show a lower figure than anticipated and not an increase. In this connection the Committee notice that the value of imports which was Rs. 1582 crores in 1969-70 and Rs. 1634 crores in 1970-71 went up to Rs. 1825 crores in 1971-72. The Committee feel that the power of the executive to enhance the levy authorised by Parliament is somewhat extraordinary and the exercise of the power so granted can be justified only if the intention is fulfilled. This does not appear to have happened. In order that Parliament may come to a proper appreciation of the position an evaluation of the imposition of regulatory duties on imports in the past should be given in every case.”

1.14. In their reply dated 4th August, 1975, the Department of Revenue and Insurance have stated:

“Para 1.23 of the Committee’s Report reproduced above raises the following points with reference to the imposition of regulatory duty in the past:

- (i) that in view of the actual realisation of regulatory duty during 1971-72 being higher than the anticipated proceeds, the purpose behind the levy viz. restraining imports was not achieved. If regulatory duty had the effect of restraining imports the

revenue realisation from the levy would have been less than anticipated;

- (ii) that since the value of imports (Rs. 1825 crores) in 1971-72 was higher than the value of imports (Rs. 1634 crores) in 1970-71, the purpose of the imposition of regulatory duty does not appear to have been achieved;
- (iii) that the contention that devaluation itself would act as a restraint on imports was not correct.

These points are analysed in the following paragraphs:

The purpose behind the imposition of regulatory duty was to 'restrain' imports which is not quite the same as reducing imports. A reduction means an absolute fall whereas restraint on imports would, on the other hand, mean that in the absence of the particular instrument of restraint (in the present case the regulatory duty), the imports would have been even higher than they actually were. Therefore, it cannot be said that just because the value of imports did not decline, imports were not restrained by the regulatory duty.

An increase in the value of imports in 1971-72 over that of 1970-71 cannot lead one to the conclusion that the purpose behind the **imposition of regulatory duty** in December 1971 was not **achieved**. For judging the impact of imposition of regulatory duty in December 1971 (which is in the year 1971-72), comparison has to be made of the imports in 1971-72 with those in 1972-73. Moreover such a comparison has to be in terms of quantity and not value of imports for if there is a rise in the rupee cost of imports as happened when there was a devaluation of the rupee, even with a reduced quantum, the value of imports could be higher. The quantum index of imports (1958=100) compiled by the DGCI&S, Calcutta shows that **there was a fall in imports in real terms, the quantum index having declined from 139 in 1971-72 to 133 in 1972-73, and at least, a part of this decline has to be attributed to the levy of regulatory duty.**

The purpose of devaluation as a policy instrument is (a) to raise the local currency unit cost of imports and thus bring about a fall in total imports and (b) to lower the unit cost of exports in foreign exchange and thereby to promote exports. Here again, **an examination of the relevant figures in value terms is mislead-**

ing. The quantum index of imports (1958=100) declined from 154 in 1965-66 to 149 in 1966-67 which shows that in 1966, devaluation did succeed in restraining imports. It must be added however, that devaluation seeks to bring the cost-price structure of a country in line with the rest of the world. If this structure again gets out of line because of inflationary pressures etc., obviously its purpose of restraining imports and increasing exports would not be fulfilled."

1.15. The Committee find that the reply furnished by the Department of Revenue & Insurance in regard to their observations relating to the imposition of the regulatory duty of customs, is silent on their recommendation that an evaluation of the imposition of the regulatory duties on imports in the past should be given in every case to enable Parliament to come to a proper appreciation of the position. It is incumbent on Parliament to satisfy itself that the exercise by the executive of its delegated power to levy regulatory duties has in fact fulfilled the objectives in view. The Committee attach considerable importance to this recommendation and would like to be apprised of the action proposed to be taken in this behalf.

1.16. The attempts made by the Department to justify the imposition of the regulatory duty to restrain imports from abroad, on 13th December, 1971, appear to the Committee to be based on certain hypothetical assumptions. The Committee would have been happier if Government could have made available to the Committee more concrete facts in support of their contention.

Delay in finalising provisional assessments made under the special project procedure (Paragraph 1.36 and 1.37 Sl. Nos. 6 and 7).

1.17. Commenting on a case of delay in finalising the provisional assessments made under the special project procedure, the Committee, in paragraphs 1.36 and 1.37 of the Report, had observed:

"1.36. Another unsatisfactory feature of this case is that there was undue delay in finalising the provisional assessment made under special project procedure. The contracts were registered on 1st December, 1961 and the imports against the contracts were spread over a period of 8 years in case of cross rails and 7 years in case of surface measuring instruments. The assessments have not yet been finalised as the final reconciliation statements have not been submitted by the importer. The Committee are not satisfied with the delay of 5-6 years in finalisation of the assessments after the last importation. The Committee desire that this matter should be vigorously pursued with the State

Undertaking concerned and the Committee apprised of the progress. A general review in this regard in all the Customs Houses also appears called for. For instance, in Calcutta Customs House, out of 50 contracts registered during the period 1961—73, none is current at present and it is not at all clear whether all the provisional assessments relating to them have been finalised. The Committee would await the results of the review as well as the action taken to stop repetitions.”

“1.37. From the figures furnished to the Committee they find that while the number of contracts still current in the major Custom Houses of the country is of a negligible order (12 in Madras Custom House, none in Calcutta Custom House and 7 in Bombay Custom House), the pendency of contracts in Visakhapatnam Custom House is abnormally high and out of 867 contracts registered during the period 1961—1973, the number of contracts which are still current is 572. Out of these, as many as 143 contracts relate to the period 1961—63. In the opinion of the Committee it would not be in the public interest to allow the contracts to continue for an indefinite length of time as it is always fraught with the risk of loss of documents and of goods becoming unidentifiable. The Committee, therefore, desire that a suitable time-limit, say 3 years, should be prescribed for the currency of such contracts under the special procedure.”

1.18. The Action Taken Notes dated 23rd December, 1975 furnished in this regard by the Department of Revenue & Insurance are reproduced below:

Paragraph 1.36:

“The observations of the Public Accounts Committee contained in this recommendation have been noted and the concerned Custom Houses have been instructed to pursue the matter vigorously with the concerned State Undertakings for submitting reconciliation statements in respect of contracts against which imports have already been completed. A review of all the contracts registered under the Special Procedure upto 1973 has also been undertaken by the Collectors concerned at the respective ports. The results of this review will be intimated to the Public Accounts Committee as soon as completed.”

Paragraph 1.37:

"It has been ascertained from the Visakhapatnam Custom House that at present there are 34 contracts (special procedure) relating to the period 1961—63, pending finalisation in the Custom House. These contracts are pending for want of certain documents/clarifications from the importers.

In this connection it may be mentioned that since most of the projects covered by the 'special procedure' are worth several crores of rupees, the imports are spread over long periods.

The currency of a contract depends upon several factors such as supply schedule, construction schedule, special requirements of designs etc. of the importers, availability of raw materials etc. Completion of projects therefore take sometimes a number of years. Any insistence on a time-limit as suggested by the Committee may become difficult to observe in many cases. The matter has, however, been taken up with the Ministry of Industrial Development and will be examined further to see if it is possible to fix time-limits for different kinds of projects and the circumstances in which extensions may be granted."

1.19. The Committee note that in pursuance of their recommendation contained in paragraph 1.36 of the Report, a review of all the contracts registered under the Special Project Procedure upto 1973 has been undertaken by the Collectors of Customs concerned. While the Committee would await the results of the review which needs to be expedited, they would like to be informed of the specific steps contemplated or adopted in order to streamline the existing procedures for assessments under the Special Procedure so as to ensure that the provisional assessments made under this procedure are finalised within a reasonable time.

1.20. While it is encouraging that the number of contracts relating to the period 1961—63 pending finalisation in the Visakhapatnam Custom House has been brought down to 34, the Committee feel that there is still considerable scope for improvement. They would urge vigorous steps to finalise these old contracts without loss of time.

1.21. The Committee concede that it would be difficult to prescribe a rigid and uniform time limit for the currency of contracts under the Special Procedure in all cases. Every endeavour should, however, be made to ensure that the provisional assessments made under the procedure do not fall into arrears and the final assessments are completed promptly. It should also be possible to evolve a suitable categorisation of different kinds of

projects on the basis of their scope and magnitude, and to prescribe suitable time limits for the finalisation of contracts in respect of each of such categories. The Committee note that this question is being examined further in consultation with the Ministry of Industrial Development and would urge Government to arrive at an early decision in the matter.

Short levy of additional duty.

(Paragraphs 1.63 and 1.64—Sl. Nos. 12 and 13).

1.22. Dealing with a case of short levy of additional duty on imports of rock phosphate, the Committee, in paragraphs 1.63 and 1.64 of the Report, had observed:

“1.63 The Committee regret to observe that in this case failure of the Custom House to scrutinise the contract resulted in under-assessment of custom duty to the extent of invoices in which the values were for 95 per cent of the weight of goods shipped. The under-assessment was detected on the scrutiny of the contracts at the instance of Audit. The Committee are unhappy that Internal Audit Department could not detect the mistake.

1.64 It was the duty of the importer to bring to the notice of the Custom House that invoices were provisional. The Committee note that the importer in this case is a public undertaking, and therefore no action was taken against them. The Committee desire that correct procedure should be followed by all Public Undertakings. It is the normal practice that goods should be cleared by an authorised agent. If that is so, then the Committee would suggest that action should be taken against him for his failure in not producing the original contract and invoices on his own accord under advice to the Committee.

1.23. In their Action Taken Note dated 17 November, 1975 on the above observations, the Department of Revenue & Insurance have state:

“The observations of the Public Accounts Committee have been noted and necessary instructions in the matter have been issued.”

1.24. The Committee, in their earlier Report, had specifically suggested that appropriate action should be taken against the authorised clearing agent, if any, in this case for his failure in not producing the original con-

tract and invoices on his own accord. It is not clear from the Department's reply whether this aspect has been examined and necessary action initiated. The Committee, therefore, wish that this should be looked into quickly, in case this has not already been done, and a more specific clarification conveyed forthwith.

Delay in disposal of confiscated goods.

(Paragraphs 1.107—Sl. No. 23).

1.25. Commenting on a case of theft in a Customs godown, the Committee, in paragraph 1.107 of the Report, had, *inter alia*, observed as follows:

“The Committee find that the earliest consignment stored in this godown was of May 1967. This shows that the goods had been stored for more than 3 years and no action was taken to dispose them of; some of which could deteriorate in value. The Committee are of the view that confiscated goods should be disposed of expeditiously and, ordinarily, the disposal should take place within three months of the confiscation. This would ensure the maximum realisation and, at the same time, reduce the possibility of deterioration in quality as also of theft. The Committee would like to be informed about the reasons for delay in this case.”

1.26. The reply dated 16 August, 1975 received in this regard from the Department of Revenue & Insurance is reproduced below:

“The observations of the Committee that confiscated goods should be disposed of expeditiously have been noted.

As regards disposal within three months of the confiscation it may be mentioned that except in the case of perishable goods, the confiscated goods are held back from disposal until the appeal period is over. This period is ordinarily three months and can be extended by another 3 months in special circumstances. If the appeal is filed then the goods do not become ripe for disposal until the appeal is disposed of. There is also a provision for revision application against the decision in appeal. The time limit for this is 6 months which can be extended by another 6 months in special circumstances. If the revision application is filed the goods do not become ripe for disposal till the revision application is disposed of. The confiscated goods also do not become ripe for disposal where the goods become the subject matter of court proceedings

until the proceedings are decided upholding the confiscation of the goods. Where finalisation of court proceedings is likely to take time the courts are approached to accord their permission for disposal of goods particularly where goods are likely to deteriorate and for holding the sale proceeds in deposit. Where, however, appeals and revision applications are not filed in time the goods can be taken up for disposal as soon as they are ripe for disposal.

In the cases covered by the theft of August 1970, it has been ascertained from the Collector that out of the 13 consignments involved, 7 had not been adjudicated, in five, adjudication had taken place between November 1969 and March 1970 and in one case appeal had been rejected in May 1970 and in these cases disposal action was pending for want of clear information regarding whether appeal/revision application had been filed."

1.27. It would appear from the details now furnished by the Department of Revenue & Insurance in regard to the cases covered by the theft of August 1970, that as many as 7 out of the 13 consignments involved had not been adjudicated and that in respect of 5 other consignments the adjudication had taken place between November 1969 and March 1970. The Committee have taken up for examination this year (1975-76) cases of delay in adjudication of goods seized by Customs Houses and the position that emerges out of this examination is rather disturbing. While the Committee would deal with this question in detail later, they are anxious that all the prescribed formalities should be completed in the least possible time and the goods confiscated disposed of expeditiously to ensure the maximum realisation and to reduce the possibility of theft and of deterioration in quality. The Committee would, therefore, suggest a thorough review of the existing procedures for the adjudication, confiscation and disposal of seized goods and the adoption of necessary remedial measures thereafter. In any case, in respect of cases of confiscation where appeals or revision applications have not been filed within the prescribed periods, it should not be too difficult to dispose of such goods with the utmost expedition to the best advantage of Government.

1.28. The Committee also observe from the Department's reply that in respect of those cases in which the adjudication proceedings had been completed, the disposal action was kept pending in the absence of clear information regarding the filing of appeals/revision applications. It would appear that a communication gap exists at present between the different authorities concerned. The Committee cannot understand how such a situation had been allowed to develop and would like an explanation. The Central Board

of Excise and Customs should also ensure that the methods now current for the interchange of information between different agencies which process cases of seizure and confiscation are properly streamlined and all bottlenecks eliminated.

Loss of goods from Customs custody.

(Paragraph 1.109—Sl. No. 25).

1.29. In paragraph 1.109 of the Report, the Committee had observed:

“The Committee note that during the year 1971-72, the total loss of goods from the Customs’ custody due to theft and other causes amounted to Rs. 27,542. The Committee require that the Board must ensure that there are proper security arrangement in the Customs godown. All cases of major losses and theft should be reviewed by the Board to ascertain whether there was any collusion. To guard against clandestine removal of goods and later on covering it up as theft, there should be frequent surprise verification of goods by higher Departmental officers.”

1.30. In their Action Taken Note dated 15 December 1975, the Department of Revenue & Insurance have replied:

“The observations of the Committee have been noted. Necessary instructions have also been issued to all Collectors in accordance with the observations of the Public Accounts Committee.”

1.31. It is not clear from the Department’s reply whether the Central Board of Excise and Customs have undertaken a review of all cases of major losses and thefts from Customs godowns with a view to ascertaining whether there was any collusion on the part of the Customs staff. The Committee desire that such a review, if not already made, should be conducted early and the results intimated.

Unauthorised export of goods.

(Paragraph 1.121—Sl. No. 26).

1.32. Dealing with a case of export of unmanifested cargo, the Committee, in paragraph 1.121 of the Report, had recommended:

“The Committee feel concerned to find that in this case the seized vessel carried unmanifested goods of the order of 40 tons. According to the Ministry it is likely (mere guess) that the unmanifested cargo was loaded beyond the port limits. The

Committee are surprised how such huge bulk of goods could be loaded in a vessel beyond the port limits in mid-sea without docking and platform facilities. The Committee, therefore, maintain that the matter needs further investigation as to where the unmanifested goods were loaded and whether there was failure on the part of Customs officers."

1.33. The reply dated 16 August, 1975 furnished in this regard by the Department of Revenue & Insurance is reproduced below:

"Two senior officers were deputed to investigate as to wherefrom the unmanifested goods were loaded and whether there was failure on the part of Customs Officers. They studied the matter in depth. There are two distinct possibilities in this regard to the placing of the cargo on board the vessel. The unmanifested cargo could have been loaded at Calicut port during the period the vessel was laying in anchor in the port. The second possibility is the cargo like the illicit emigrants could have been loaded at mid-sea after the vessel took port clearance. They have stated that the statements of the crew of M.S.V. Shaman and the illicit emigrants give an impression that the unmanifested cargo found on board the vessel, might have been loaded during the period M.S.V. Shaman was lying in anchor at mid-sea at Calicut port. At best this impression can only be a presumption or suspicion. In their opinion it cannot be conclusively established at what point of place the unmanifested cargo was loaded into M.S.V. Shaman.

The loading of the authorised cargo for these vessels takes place only at mid-sea at Calicut port. The export vessels always remain at a distance of 3 to 5 km, and the cargo after completion of customs formalities are loaded into lighters who convey the cargo to the vessel lying in anchor in the mid-sea. The facilities like berthing alongside of wharf and platform arrangements for loading of cargo as found in major ports are not available in minor ports like Calicut. In the Calicut port there is a large traffic of lighters carrying cargo to the sailing vessels. The foreign and local cargo are segregated at the North and South piers on the coast, but after the lighters leave the piers, there are difficulties in segregating them. The goods for export are covered by boat notes to enable checking. Unauthorised loading from anywhere along coast is sought to be prevented by intelligence and preventive measures in general, by way of anti-smuggling operations."

1.34. The Committee regret that the investigations conducted by two senior officers have failed to establish conclusively the place from which the unmanifested goods were loaded in the seized vessel. However, since the presumption is that the goods might have been taken on board the vessel while it was lying in anchor at mid-sea at Calicut Port and in view of the fact that the loading of the authorised cargo also takes place only at mid-sea in this port, it is incomprehensible how goods of such bulk (40 tons) could have been taken on board undetected. It would, therefore, appear that the customs surveillance must have been lax, if not altogether non-existent. If the goods had been loaded alongwith other authorised export cargo covered by valid customs documents, unmanifested goods of such bulk should obviously have been noticed by the rummaging officer who rummaged the vessel before permitting it to sail from the port. The Committee would, therefore, like to be satisfied that the prescribed checks had, in fact, been carried out. If laxity or collusion on the part of the Customs staff comes to light, appropriate action should be taken against the delinquent officials.

1.35. In the light of the difficulties experienced in segregating at the port lighters carrying local and foreign cargo to vessels anchored at mid-sea, the Committee feel that it would be advisable to take special steps to strengthen the existing customs checks at the port in order to prevent the loading of unmanifested cargo on vessels on foreign runs.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee are unhappy that in this case assessable value of a consignment of cross rails imported in July, 1963 and surface measuring instruments imported in December, 1963 by a public undertaking under special project import procedure was assessed to duty on assessable value of Rs. 1,257 per metric tonne and Rs. 2,801 per metric tonne respectively, although similar consignment covered by the same contract were valued at far higher figures *i.e.* Rs. 7,150 in case of cross rails and Rs. 41,520 in case of surface measuring instruments. Admittedly the Appraiser concerned was not careful while assessing the goods initially. It is surprising that he could not distinguish between rails and structurals. This raises the basic question of adequacy of training of appraising staff in order that they may be effective and efficient. The Committee desire that this aspect should be considered by the Central Board of Excise and Customs with the seriousness that it deserves and the Committee informed about the outcome.

[S. No. 4, Para 1.34 of PAC's 135th Report (1974-75).
5th Lok Sabha]

Action taken

In order to improve the quality of assessment work, some Appraisers with expert knowledge of and experience in the different branches of technology such as electrical/mechanical engineering machinery, metallurgy, drugs and medicines, chemicals, jewellery, leather and textiles etc. have been recruited by the Government. Directly recruited Appraisers, both experts and non-experts, on their entry into the Government service are also given initial training in different aspects of their work. Further, special courses of training in the field of both classification and valuation are now being conducted for the appraisers by the Directorate of Training (Customs and Excise), Ministry of Finance.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No.
512/6/75-Cus.VI, dated 23-12-1975.]

Recommendation

The Committee note that in both the cases the bills of entry were presented under the prior entry system, that is, presentation of documents before arrival of the vessel. Under Section 15 of the Customs Act, the rate of exchange applicable is the one prevalent on the date of presentation of the bill of entry or date of entry of the vessel whichever is later. In these cases as the rates of exchange had changed by the time of grant of entry inward, goods should have been revalued and differential amounts should have been realised. The Committee regret that the correct procedure was not followed in these cases. The Ministry have explained that the omission was due to the fact that the Customs House treated the difference as insignificant and therefore did not issue the demand. The Committee would observe that this assumption is unwarranted. The exact quantum of duty depends on the value and rate. Where these are high or even one of the factors is high, the difference would be appreciable. The Committee understand that the normal practice is not to demand duty for a sum less than Rs. 25. In the present cases, the difference of duty amounted to Rs. 38,888 which is not at all an insignificant amount. The Committee feel that the existing system for review of all bills of entry presented under prior entry needs examination. They have been informed that in the cases mentioned in the foregoing paragraph the bills of entry were audited and reviewed by computists, audit clerks and audit appraisers. According to the Audit the duty paid was Rs. 3,65,916. Having regard to the amount involved there is definitely a case for check at higher levels as well. In order to avoid recurrence of such cases of under assessment, the Committee require that the Department should lay down rigid guidelines in this behalf.

[S. Nos. 8 and 9, Paras 1.43 and 1.44 of PAC's 135th Report
(1974-75), 5th Lok Sabha]

Action taken

The Recommendations 1.43 and 1.44 of the Committee have been noted and communicated to all concerned for strict compliance. A copy of fresh instructions issued to all Collectors of Customs is enclosed. (F. No. 512/7/75-Cus.-VI, dated 18.8.75) (Annexure).

[Ministry of Finance (Department of Revenue and Insurance) O.M. No.
512/7/75-Cus.VI, dated 1-1-1976.]

ANNEXURE

CIRCULAR NO. 14/1975

F. No. 512/7/75-Cus.VI

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 18th August, 1975

From

The Under Secretary
to the Government of India.

To

All Collectors of Customs (by name),
The Collector of Central Excise,
Madurai/Ahmedabad/Guntur.
The Deputy Collector of Customs,
Visakhapatnam/Goa.
The Assistant Collector of Customs,
Jamnagar/Tuticorin/Mangalore/Kandla.

SUBJECT:—*P.A.C.'s Recommendations—Revision of Foreign Exchange Rates—Re-assessment of bills of entry filed under prior entry system.*

Sir,

I am directed to refer to this office letters No. 493/3/73-Cus.VI, dated the 29th March, 1973 and No. 512/16/72-Cus.VI, dated the 25th August, 1973, and to forward herewith a copy of the Recommendation at paragraphs 1.43 and 1.44 of the P.A.C. (1974-75) in their 135th Report on the Report of the C. & A. G. for the year 1971-72.

2. It is requested that the observations of the P.A.C. may please be communicated to all concerned for strict compliance of the correct procedure.

3. It is also requested that besides the instructions quoted above, the bills of entry of the value of Rupees one lakh and over should be checked

at the following levels:—

- (a) All bills of entry of value of Rupees one lakh and over
by A.C./I.A.D.
- (b) All the bills of entry of value of Rupees Five lakhs and over
. by D.C./I.A.D.

The position may be reviewed after six months and reported to the Board.

4. Receipt of this communication may kindly be acknowledged.

Yours faithfully,

Sd/- V. S. NAIK,

Under Secretary to the Government of India.

Recommendation

The Committee are surprised how the Collector of Customs accepted the freight declared to be fair being 20 per cent of the cost of goods imported when in this case the goods were very heavy weighing about 118 tonnes. The Committee note that in order to ensure that there is no short levy due to flat addition of 20 per cent on account of freight and insurance, it has been prescribed that a record should be maintained of any class of goods in respect of which 20 per cent addition is inadequate. The Committee desire that the Board should ensure that such a list is maintained by all Custom Houses and that it is kept upto date.

[S. No. 11. Para 1.56 of PAC's 135th Report (1974-75),
5th Lok Sabha]

Action taken

The recommendation of the Public Accounts Committee in this regard has been brought to the notice of all the Custom House/Collectorates for compliance and the instructions contained in this Ministry's Circular No. 6/1974, dated the 6th March, 1974 (copy enclosed) have been reiterated in this Ministry Circular letter No. 512/4/75-Cus.VI, dated the 17th July, 1975 (copy enclosed) (Annexure).

[Ministry of Finance (Department of Revenue and Insurance) letter No. 512/4/75-Cus.VI, dated 25-7-1975.]

ANNEXURE

CIRCULAR NO. 6/1974

F. No. 512/20/72-Cus.VI.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPTT. OF REVENUE AND INSURANCE)

New Delhi, the 6th March, 1974

From

The Under Secretary to the Government of India.

To

All the Collectors of Customs.

All the Collectors of Customs & Central Excise.

The Deputy Collector of Customs, Goa/Visakhapatnam/
Bhubneswar.

The Asstt. Collector of Customs, New Kandla.

Sir

SUBJECT—*Freight charges—Addition of in the assessable value—question regarding.*

I am directed to enclose a copy of the additional information sent to the P.A.C. on paragraph 6 of the Report of the Comptroller and Auditor General of India for the year 1971-72 for your information.

The Board desires that compliance with the instructions contained in Board's letter F. No. 3/14/64-Cus.VI dated 2-8-64, incorporated at pages 219-221 of the Central Manual of the Appraising Department, Volume I, should be ensured, in order to avoid short levies in respect of commodities for which the flat rate addition of 20 per cent on account of freight may be insufficient.

Kindly acknowledge receipt.

Yours faithfully,

Sd./- P. K. KAPOOR,

Under Secretary to the Govt. of India.

Points for additional information arising out of the Report of the Comptroller and Auditor General of India for the year 1971-72—Revenue Receipts, Volume I

Paragraph 6—Short collection of duty due to incorrect addition of freight.

34. Has Government reviewed the flat rate addition of freight or the actual rates declared in some selected cases at least to be satisfied about their reasonableness?

REPLY

Actual rates declared in doubtful cases are verified by the Custom Houses from other documents such as freight memos. It has been noticed by the Custom Houses that generally the flat addition of 20 per cent is not lower than the normal freight charged. Whenever such an addition appears inadequate, further investigations are made. In order to ensure that there was no short levy due to the flat rate addition of 20 per cent on account of freight and insurance, in Board's F. No. 3/14/64-Cus.VI, dated the 2nd August, 1964, incorporated at page 219 of the Central Manual of Appraising Department, Volume I (relevant extracts enclosed), it has been prescribed that a record of any class of goods in respect of which 20 per cent addition is found inadequate should be maintained. A list of articles was also drawn in respect of which the addition of 20 per cent for freight and insurance charges was found to be insufficient.

Extracts from Central Manual of Appraising Department, Volume I, (Pages 219—221).

(2) *Freight:* (i) Twenty per cent shall usually be added to the invoice value for freight, insurance and commission charges when these are not shown to be included in the invoice value. If such a rate appears inadequate, the cases should be reported to the Assistant Collector for orders.

(ii) A detailed record of any class of goods in respect of which the 20 per cent addition referred to in sub-para (i) above is found inadequate shall be maintained in group note books. This addition has been found to be insufficient in respect of the goods mentioned in the list below:—

- (i) Corks and Cork Slabs for insulation.
- (ii) Glass bulbs for the manufacture of electric lighting lamps.
- (iii) Steel tubes or pipes and condenser brass tubes.
- (iv) Scrap leather.

- (v) Porcelain and Earthenware, domestic.
- (vi) Glassware, domestic.
- (vii) Cycle rims.
- (viii) Motor car and truck springs, as also cars and trucks imported in a 'Knocked down' condition.
- (ix) Certain heavy chemicals, *e.g.*, Mag. Compound.
- (x) Bitumen.
- (xi) C. I. Baths.
- (xii) Bottles 'Crown Cork'.
- (xiii) Methyl Ethyl Ketone.
- (xiv) Cycle Accessories.
- (xv) Alabaster Statutory.

(iii) Where there is evidence of subsequent increase in freight and the terms of sale, even though *c.i.f.*, show that any increase in freight is to be on the buyers' account, the increase freight should be taken into consideration in arriving at the value under section 30(b) Sea Customs Act (now section 14(1) of Customs Act). Even if the sale contract does not contain a condition to this effect, the assessable value may be enhanced provided that it is warranted by a comparison with the cost of contemporary importations of goods of like kind and quality.

(iv) When there are reasons to believe that extra charges such as loading and inland transport and shipment charges in the country of origin have been incurred but the exact figure is not known at the time of assessment, the case should be submitted to Assistant Collector for Appraisal for order as to the addition to be made to the assessable value on account of these charges pending submission of documents showing the actual amounts involved.

(v) In order to arrive at a decision whether adjustment of freight and other charges can be carried out without calling for the invoice presented at the time of classification of the bill of entry, the scrutinising appraiser should in future clearly indicate on the bill of entry whether the addition of 20 per cent or more in lieu of freight etc. covers only freight and insurance charges or freight, insurance and commission charges.

The invoices will ordinarily be called in cases where the freight memo cannot be connected with the bill of entry without the invoices or where examination of this document is necessary for correct allocation of freight

and charges to the various items of a bill of entry assessable to duty at different rates of duty.

Where there are a number of items carrying various rates of duty and only one F.O.B. value the relevant invoice will have to be called for to examine the allocation of the total F.O.B. value to each item of the bill of entry.

Circular No. 8/75

F. No. 512/4/75-Cus.VI.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPTT. OF REVENUE AND INSURANCE)

New Delhi, the 17th July, 1975

From

The Under Secretary to the Government of India.

To

All Collectors of Customs.

All Collectors of Central Excise.

The Deputy Collector of Customs, Visakhapatnam/Goa/
Bhubneswar.

The Asstt. Collector of Customs, New Kandla.

SUBJECT.—*Freight charges—Addition of, in the assessable value—
Recommendations of the P.A.C.*

Sir,

I am directed to invite your attention to the instructions contained in this Ministry's Circular No. 6/1974, dated the 6th March, 1974, on the above subject and to forward herewith an extract of paragraph 1.56 of the recommendations of the P.A.C. contained in their 135th Report (5th Lok Sabha) 1974-75, for strict compliance.

Kindly acknowledge receipt of this letter.

Yours faithfully,

Sd./- V. S. NAIK.

Under Secretary to the Govt. of India.

Encl. 1.

Recommendation

1.92. The Committee take a serious view of the gross excess levy of duty to the extent of Rs. 20,423 which could not be refunded. It is a matter of regret that the mistake was not detected by the Internal Audit Department. The workload needs to be looked into.

[Sl. No. 20, Para 1.92 of PAC's 135th Report (1974-75)—5th Lok Sabha]

Action taken

The Committee's observations have been noted. The Directorate of Inspection (Customs & Central Excise) are already examining the audit workload in Bombay Custom House and will submit, in the light of their study, proposals regarding augmentation of staff with a view to strengthening the same.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. F. No. 442/1/75-Cus.IV dated 17-11-1975.]

Recommendation

The Committee find that in this case there was delay in forwarding the Bill of Entry to the Customs Revenue Audit. The Committee suggest that in order to avoid such delays, a time-limit must be specified for rendering the Customs documents to Audit.

[Sl. No. 21, Para 1.93 of PAC's 135th Report (1974-75) 5th Lok Sabha]

Action taken

A time limit of 120 days has already been fixed for submitting the Original Bills of Entry to the Customs Revenue Audit. A copy of the instruction No. 1/75 issued *vide* F. No. 442/2/73-Cus.IV dated 14-2-1975 (Annexure) is enclosed. The Collectors of Customs have also been advised to fix certain time-limits for movements of the Bills of Entry through the various processes in different Departments and also to devise some checks to ensure that the time-limit is strictly adhered to.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 442/2/75-Cus.IV dated 27-11-1975.]

• ANNEXURE

Instruction No. 1/75.

F. No. 442/2/73-Cus.IV

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 14th February, 1975

From

H. Narayan Rao,
Under Secretary to the Government of India.

To

The Collector of Customs, Bombay/Calcutta/Cochin/Madras.
Procedure

SUBJECT.—*Fixation of time-limit for submission of B/E to C.R.A. for
Audit—instruction regarding.*

Sir,

I am directed to refer to your letter (No. 1) C-2170/71-1/C-1731/72/C-1564/73 dated 9-8-1974 (ii) 10-51/74 dated 14-6-1974 (iii) C. 1/109/74-Cus. dated 10-6-1974 (iv) 845/10/74-IAD dated 29-5-1974, on the above subject and to say that it has since been decided that the Original Bills of Entry should be forwarded to the Customs Revenue Audit for audit purposes well within a maximum period of 120 days from the date of payment of duty. It may please be stressed upon the staff concerned that this time-limit should be adhered to scrupulously and that if for any reason any batch of original bills of entry cannot be forwarded to the C.R.A. within three and a half months from the date of payment of duty the fact should be brought to the notice of the concerned Deputy Collector of Customs so that it could be ensured that the Bills of Entry are forwarded to the C.R.A. within the time-limit of 120 days referred to above.

It is also requested that certain time-limits may please be fixed for movements of the Bills of Entry through the various processes in different Departments and also some checks devised to ensure that the time-limits referred to above are strictly adhered to.

The receipt of this communication may please be acknowledged.

Yours faithfully,

Sd./- H. NARAYAN RAO,

Under Secretary to the Government of India.

Copy, with a copy of this Department's letter of even number dated 15-5-1974, also forwarded to:—

- (1) All other Collectors of Customs for information and necessary action. The receipt of this communication may please be acknowledged.
- (2) All Collector of Central Excise.
- (3) Deputy Collector of Central Excise & Customs, Goa.
- (4) Addl. Collector of Central Excise & Customs, Bhubaneswar.
- (5) Asstt. Collector of Customs, Visakhapatnam.

Sd./- H. NARAYAN RAO,

Under Secretary to the Government of India.

Copy to:—

- (1) P.S. to Chairman (CB&EC)/M(CUS)/M(CX)/M(T).
- (2) DS(CUS)/DS(REV)/DS(LC).
- (3) All U.Ss. of Sections in the Customs Wing.
- (4) OSD(CUS)/All I.Os. of Cus.II and CX.5.
- (5) DI(CCE)/Dir. of Training, (K-15 Haus Khas Enclave, New Delhi/
Tariff Unit.
- (6) The Bulletin & Manual Sections (with 4 spare copies).
- (7) Director (Revenue Audit), Office of the C.A.&G. of India New
Delhi.
- (8) Appellate Collectors of Customs, Bombay/Calcutta/Madras/Delhi.

Sd./- H. NARAYAN RAO,

Under Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 15th May, 1974

F. No. 442/2/73-Cus.IV

To

The Collector of Customs, Bombay.

SUBJECT.—*P.A.C.—Consideration of the Report of the C&AG for the year 1971-72—Addl. information required on Audit Para 14—Excess levy of duty to the extent of Rs. 20,423/- on 'Bundy Tubes'—Bombay Custom House.*

Sir,

I am directed to refer to your letter No. C-2170/71-1/C-1731/72/C-1564/73 dated the 21st January, 1974, on the above subject and to enclose a copy of the Revenue Audit letter No. 839-Rec.A/228-71(IDT) dated the 11th April, 1974 along-with a copy of brief containing additional information on the points No. 88 to 92 arising out of Para 14 of the Audit Report (Civil) on Revenue Receipts, 1971-72 for use of the PAC. While the Audit have given their concurrence to the proposed reply to PAC they have suggested in their letter referred to above that (i) a copy of the instruction referred to in this Ministry's reply to the point at Sl. No. 91 may be enclosed thereto for reference of the PAC and (ii) as a remedial measure against delay in rendering the Customs documents to Audit, a time-limit may be specified. You are, therefore, requested to send to this Ministry's copy of the instructions referred in para 2(iv) of your letter under reference according to which Auditors and Audit A.Os. are required to carry out a rough overall calculation with a view to avoiding arithmetical error in calculation of Customs duty. You are further requested to furnish your detailed comments urgently on the suggestion of Revenue Audit for prescribing a time schedule according to which Customs documents should be supplied to CRA for checking.

Yours faithfully,

Sd./- H. NARAYAN RAO.

Under Secretary to the Government of India.

Copy, with a copy of the Revenue Audit's letter No. 839-RECA/228-71(IDT) dated 11-4-1974 and a copy of the proposed reply to PAC forwarded to the Collector of Customs, Calcutta/Madras/Cochin with the request that comments with regard to specifying the time schedule for

supplying the Customs documents to the CRA may please be furnished to this Ministry immediately.

Sd./- H. NARAYAN RAO,

Under Secretary to the Government of India.

Recommendation

The Committee are most astonished to observe that in this case although goods worth Rs. 18 lakhs were kept in the godown, no proper guarding arrangements existed. The godown which is having only a single tiled roof without ceiling, has not been provided with the proper metal ceiling. After the theft of articles worth Rs. 12,289 occurred in August, 1970, no action was taken by the CPWD to provide a proper ceiling for the godown in order to make it secure. No wonder another theft occurred in May, 1973. The Committee desire that necessary steps should be taken forthwith to remove the insecure condition of the godown and strengthen the guarding arrangements. They would also like to know the outcome of the investigation by the police of the second theft. It is possible even that the Customs staff have connived at the thefts. The Committee understand that on both the occasions consumer articles were lost and the Executive officer did precious little to prevent repetition. They would like that investigations should be conducted to ensure that there was no collusion by Customs staff.

[S. No. 22, Para 1.106 of PAC's 135th Report (1974-74)-5th Lok Sabha.]

Action taken

The godown where the seized goods are stored has been made secure by fixing a metallic ceiling. The guarding arrangements have been entrusted to the Police with effect from 12-11-1973. In the case of the first theft the Police after their investigations reported that the case was undetectable, no collusion of godown officials was suspected. As regards the 2nd theft, here also the police investigations have not revealed any collusion. The case is under trial by the Sub-Magistrate, Calicut. Necessary instructions have again been issued to the Collectors asking them to ensure that the security arrangements in the Customs godowns are adequate.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 561/3/75-LCII dated 15-12-75.]

Recommendation

The Committee were informed in August, 1973 that the value of goods confiscated out of the goods seized during 1971-72 was Rs. 15.2 crores and that the sale price realised till then was Rs. 3.458 crores. This shows that either the disposal of confiscated goods was slow or the sale value realised was very low compared to the value of the goods confiscated or the

value of seized goods were highly inflated to unduly highlight customs performance. If the second presumption is true, the Committee would like to have an explanation why the value realised was so low. The Committee suggest that in order to prevent over-pricing, it might be useful for the Customs Authorities to give cogent reasons for any large difference between the valuation figures computed and the value realised in disposal.

[S. No. 24, Para No. 1.108 of PAC's 135th Report (1974-75) 5th Lok Sabha.]

Action taken

The sale proceeds of Rs. 3.458 crores includes Gold and Silver valued at Rs. 34 lakhs sent to the Mint, Currency and Cheques valued at Rs. 12 lakhs sent to Reserve Bank and Launches and Fire arms valued Rs. 80,000/- appropriated for departmental use. The realisation on sale of confiscated goods till then was Rs. 2.99 crores as against a book value of Rs. 4.05 crores recorded at the time of seizure. The sale proceeds realised would not appear to be very low considering that at the time of the sale of confiscated goods to N.C.C.F. and canteen Stores a discount of about Rs. 51 lakhs was also allowed. The reasons for the difference between the book value and the sale proceeds are mainly due to the following:—

1. For the confiscated goods sold through National Consumer Co-operative Federation, Canteen Stores etc. under the existing orders of the Govt. a discount of 10—25 per cent is allowed to these agencies.
2. Sometimes there is a fall in the market price at the time of disposal as compared to the price prevailing at the time of seizure.
3. Recorded value represents the value of goods ascertained in open market at the time of the seizure, whereas the sale price is fixed by the pricing Committee considering market trends and conditions of goods etc.
4. Goods sold in auctions are in some cases limited to actual users.
5. Goods are sold without guarantee and sometimes after long storage awaiting decision in appeal etc., and auction bidders would take this into consideration in bidding.

Instructions have been issued as suggested by the Committee that where there are large differences between the valuation figures computed and the value realised, cogent reasons be recorded in the relevant registers.

[Ministry of Finance (Department of Revenue and Insurance O.M. No. 561/5/75-LCII dated 16-8-1975.)]

Recommendation

The Committee feel concerned over the declining in receipts from export duty at some of the ports including Kozhikode on the West Coast.

The Committee require the Central Board of Excise and Customs to undertake a review of the position to determine the extent to which the decline in receipts can be attributed to smuggling operations and to take effective measures to check the same.

[S. No. 27, Para 1.122 of PAC's 135th Report (1974-75) 5th Lok Sabha]

Action taken

A review of the position regarding the decline in receipts from export duty on the West Coast reveals that there has been a diversion of goods to Cochin by major exporters on account of better port arrangements at Cochin and lesser number of steamers calling at Kozhikode port for export of goods. The abolition of export duty on tea w.e.f. 1-3-70, decline in export of raw cotton due to failure of cotton crop, and decline of export of deoiled groundnut meal etc. are further causes for the decline in export duty receipts.

Decline of receipts in revenue could not be attributed to smuggling operations in as much as there were no reports or intelligence to suggest that any of the items dutiable on export had been smuggled out of the country in any appreciable quantities in the particular period. However, it may be stated here that adequate anti-smuggling measures such as augmentation of staff, set up of shore guards and Road patrolling parties, wireless net-work, intensive marine patrolling, acquisition of fast Norwegian boats and detentions under COFEPOSA etc. have since been taken so as to prevent smuggling.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 561/8/75-LCII dated 15-12-1975.]

Recommendation

The West Coast covers a long belt and hence calls for tighter vigilance operations to curb effectively clandestine operations such as picking up of illicit emigrants and valuable goods after clearance of the vessels from the ports. The penalties for such offences should be severe to act as a deterrent.

[S. No. 28, Para No. 1.123 of PAC's 135th Report (1974-75) 5th Lok Sabha]

Action taken

Instructions have been issued to the Collector of Customs and Central Excise, Cochin, drawing his pointed attention to the observations of the Committee.

Various steps have also been taken to tighten the vigilance operations, such as, strengthening of preventive machinery by augmentation of staff

and deploying sophisticated fast speed boats. These boats are fitted with light machine guns and modern equipment like electronic night sights for locating suspected crafts. Provision has also been made for wireless communications network for speedy and dependable means of communications for anti-smuggling work. Preventive detention has also been resorted to.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 561]9/75-LCII dated 19-12-1975]

Recommendation

The Committee find that during the year 1971-72, the amount of Customs duty refunded on goods landed but found missing before clearance was Rs. 4.28 lakhs. The goods were pilfered or stolen while in the custody of port trusts. The Committee feel concerned over the loss and desire the Port Trust authorities should take necessary steps to tighten the security arrangements. All cases of losses of valuable goods should be examined with a view to determining whether the thefts have occurred in collusion with the staff or importers and if so, to take appropriate deterrent action.

[S. No. 29, Para 1.136 of PAC's 135th Report (1974-75),
5th Lok Sabha]

Action taken

The recommendation of the Public Accounts Committee has been brought to the notice of the Ministry of Shipping and Transport who are the concerned Ministry. That Ministry has also been asked to furnish a note on the action on the recommendation direct to the Public Accounts Committee, vide this Ministry's Office Memorandum F. No. 512/5/75-Cus. VI. dated the 10th April, 1975 (copy enclosed) (Annexure).

[Ministry of Finance (Department of Revenue and Insurance) letter No. 512/5/75-Cus.VI, dated 16-8-1975.]

Various steps have been taken by the Port authorities to strengthen security arrangements, the principle among them being the induction of the Central Industrial Security Force from 1971. As a result, improvement has been noticed in the position of pilferage in the ports. However, all cases of theft of cargo, whether valuable or otherwise, are invariably reported to the Police, and the ports' employees, if found guilty of collusion with outsiders in these thefts, are dealt with under the departmental rules and deterrent action is taken against them.

[Ministry of Shipping and Transport O.M. No. PTS-8/75, dated 19-1-76]

P.A.C.
IMMEDIATE

ANNEXURE

F. No. 512/5/75-Cus.VI

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 10th April, 1975

OFFICE MEMORANDUM

SUBJECT.—*P.A.C. (1974-75)—135th Report—Recommendation Paragraph No. 1.136.*

The undersigned is directed to enclose a copy of the reply to Point No. 10(a) of list of points arising out of the Audit Report for the year 1971-72 in respect of Audit Para No. 20, relating to Remissions and abandonments of Customs Revenue. The Public Accounts Committee were informed therein that customs duty amounting to Rs. 4.28 lakhs was refunded by the Government in respect of the goods which were pilfered or stolen while in the custody of Port Trusts prior to clearance. The figures given by the following Custom Houses are indicated below:—

S. No.	Custom House/Collectorate	
1.	Bombay Custom House	3,72,949.70
2.	Calcutta Custom House	52,180.70
3.	Madras Custom House	3,043.18
4.	Maduraj Collectorate	
	Total	4,28,353.58

2. The Public Accounts Committee in paragraph 1.136 of their 135th Report (5th Lok Sabha) 1974-75 (extract enclosed) have expressed concern over this loss of revenue and desired that Port Trust authorities should take necessary steps to tighten the security arrangements and all cases of losses of valuable goods should be examined with a view to determining whether the thefts have occurred in collusion with the staff or importers and if so to take appropriate deterrent action. It is, therefore, requested that the recommendation of the P.A.C. may be examined and implemental action

taken thereon, may be intimated to the P.A.C. urgently under intimation to this Ministry.

Sd/- V. S. NAIK,

Under Secretary to the Government of India.

To

Shri K. L. Gupta,
Deputy Secretary,
Ministry of Shipping & Transport
New Delhi.

Recommendation

“The Committee note that during the year 1971-72 in 328 cases exemption were given under Section 25(2) of the Indian Customs Act, 1962, which provide for exemption of duty under circumstances of exceptional nature. The Committee are anxious that before giving such exemption the Board should satisfy themselves that exemption given to individual and firms etc. invariably serves public interest.

[S. No. 31, Para 1.138 of PAC's 135th Report (1974-75),
5th Lok Sabha]

Action taken

The observations have been noted.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No.
467/3/75-Cus.V, dated 1-1-1976]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES OF GOVERNMENT

Recommendation

The Committee cannot but deplore the inordinate delay on the part of the Board in issuing clarification on the references made by the Collector of Customs House, Bombay in November, 1970 seeking guidance as to the classification of *inter-alia* Collar Stays and polymeric plasticizers. The Central Board of Excise and Customs issued the necessary clarification in the form of tariff advice on 18th August, 1972 (*i.e.* after about 22 months). This is a clear instance of gross inefficiency. The Ministry have stated that the reference from the Collector of Customs Bombay was inadvertently linked with another case regarding classification of Nitro Cotton referred to by the Collector of Customs, Calcutta, in April, 1970 and was lost sight of at the time of discussion in the conference of Collectors held in Cochin in January, 1971. The reference was traced only on receipt of a reminder from the Collector of Customs, Bombay on 16th July, 1971 and the question was discussed at the Collectors Conference held in Madras in February, 1972. Thereafter tariff advice in respect of Collar Stays was issued on 18th August, 1972. The Committee consider that the delay that has taken place is inexcusable and suggest that responsibility specially at the top level should be fixed for the delay and the Committee informed about the action taken in this behalf. The Committee would like to reiterate the observation made in paragraph 1.33 of their 110th Report (4th Lok Sabha) that the Central Board of Excise and Customs are meant to give a lead to the lower formations in the matter of prompt decisions and it is therefore imperative that decisions on questions of tax liability are promptly taken.

[S. No. 14, Para 1.70 of PAC's 135th Report (1974-75),
5th Lok Sabha.]

Action Taken

The observations of the Committee have been noted.

2. The reasons for the delay that occurred in this case in issuing clarification on a reference received from the Collector of Customs, Bombay have been examined carefully by the Ministry in order to take corrective action and to avoid a repetition of such instances.

3. The reference from the Collector of Customs, Bombay, was received in November, 1970 and as already explained to the Committee, the same was inadvertently linked with another file regarding classification of Nitro Cotton referred to by the Collector of Customs, Calcutta, and was lost sight of. This happened because the subject matter of both the references from Collector of Customs, Bombay and from the Collector of Customs, Calcutta referred to the same general subject viz. the scope of item 82(3)I.C.T., which had been introduced in the Tariff on 1st March, 1970. A Tariff advice was issued in the case of Nitro Cotton on 4th May, 1971 and it was only when a reminder was received on 15th July, 1971 that it was realised that an issue was left pending. The delay which occurred due to this wrong linking of papers amounted to 8 months from 12th November, 1970 to 16th July, 1971.

4. Thereafter the issue was included in the agenda of the Conference scheduled for August, 1971 but the Collectors of Customs other than Bombay had not had time to study the issue fully in order to have a purposeful discussion in Conference. Hence, it was put off for the discussion at the next Conference which took place in February, 1972. As a result there was a further delay of about 7 months, which in the circumstance was perhaps unavoidable.

5. After the Minutes of the Conference held in February, 1972 were received, it was found necessary to consult the Excise Wing of the Board's Office as classification under the Excise Tariff for purposes of C.V. duty was also involved. Only after the Excise Wing examined the issue, a Tariff Advice was issued in August, 1972.

6. In order to avoid a recurrence of inadvertent oversight of such references the following steps have been taken:—

- (i) Instructions have been issued to the Collectors of Customs referring to this case and impressing upon them the need to examine all references made by them on classification matters which are still pending when the agenda of a Conference is received to see whether any issue has been omitted therefrom and to take necessary steps to immediately inform the Board of the omission. A copy of the letter is enclosed for the information of the Committee. (Annexure).
- (ii) A control register has been started in the Tariff Unit in the Board's office in which all references on Tariff classification matters are separately entered with full details in order to keep a watch over their proper disposal.

7. Further, in order to remove the need for a separate reference to Central Excise Wing and to avoid consequent delay, a decision has been taken and put into effect since March, 1974 to enlarge the scope of the Conference of Collectors on classification matters to include also the Collectors of Central Excise of the five zones of Bombay, Calcutta and Orissa, Kanpur, Madras and Cochin. Ever since this date, the Conference has been a combined Conference of Collectors of Customs and Central Excise and all issues involving classification under the Central Excise Tariff for C.V. duty purposes are discussed in this combined Conference.

8. From the above it would be seen that the delay which occurred in this case was not due to the fault of any individual. As regards the shortcomings in the system itself, necessary corrective action has been taken. However, the observations of the Committee have been noted and the same have been circulated to all Wings of the Board's Office to ensure that classification issues are promptly dealt with and such delays do not recur.

[Ministry of Finance (Department of Revenue and Insurance O.M. No. 521/2/75-Cus.(Tu), dated 20-1-1976.]

ANNEXURE

Copy of letter No. F. No. 523/3/73-Cus(TU) dated 1st October, 1973

SUBJECT.—Conference of Collectors on Classification Matters—Points for Discussion In-Regarding.

While examining an Audit para included in the Report of the Comptroller and Auditor General of India for 1971-72 (para 9-non-levy of additional duty on Collar Stays), it has come to the notice of the Board that a reference made by Bombay Customs House on 6-11-70 in regard to correct classification of Collar Stays was lost sight of in the Board's office with the result that it was not considered in any of the four classification conferences held between November, 1970 and June, 1971 and avoidable delay took place in the issue of a Tariff Advice.

2. The Board desires that the Collectors Should examine all references made by them on classification matters which are still pending when the agenda of a conference is received with a view to determining whether any important issue has been omitted. In addition particular care should be exercised to ensure that all pending references arising out of C.R.A. objections are duly included in the agenda for discussion with the representative of the Comptroller and Auditor General. If any such item (whether for discussion with the office of the Comptroller and Auditor General or not) is found omitted from the agenda, the concerned Collector should have the same included for discussion by informing

the other Collectors and circulating necessary papers to them under intimation to the Board.

Yours faithfully,
Sd./-

D. C. MANDAL,
Under Secretary

Central Board of Excise and Customs.

Attested

sd/- V. M. K. Nair
Inspecting Officer.

Recommendation

It has been stated by the Ministry that the pending cases and the cases under objection are decided on the basis of the Tariff Advice and to that extent the Tariff Advice has retrospective effect. The Committee wonder whether this view could be sustained in law. The Committee desire that the matter should be examined carefully. Incidentally, it is evident from the Ministry's reply that in the case under discussion the non-levy of additional duty during the period 1st March, 1970, to 17th August, 1972 was due to wrong interpretation of the notification dated 1st March, 1964 by the Bombay Custom House.

[S. No. 15, Para 1.71 of PAC's 135th Report
(1974-75) 5th Lok Sabha.]

Action taken

The matter has been examined again in consultation with the Ministry of Law, Justice and Company Affairs, who have concurred with the position stated in para 3 of the Ministry's reply to point No. 61, forwarded to Public Accounts Committee under cover of Ministry's Office Memorandum No. 521/3/74-Cus.(TU) dated 6.2.74 (copy enclosed for ready reference) (Annexure).

The observation of the Committee that the non-levy of additional duty in the case under discussion was due to wrong interpretation of the notification dated 1-3-64 by Bombay Custom House, have been noted.

[Ministry of Finance (Department of Revenue and Insurance O.M.
No. 521/3/75-Cus(TU) dated 19-1-76.]

ANNEXURE

Additional information arising out of Audit Paragraphs contained in the Report of the Comptroller and Auditor General of India for the year 1971-72 Union Government (Civil)—Revenue Receipts, Volume I, relating to Customs

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

POINT No. 61.—*What is a Tariff Advice? What is its legal force? Can the Board make a tariff advice operate retrospectively?*

REPLY

61. A tariff Advice is an expression of opinion formed in the best judgment of the authority giving the advice, on a given set of facts and circumstances rather than being a ruling or a direction laying down the law for classification of an article. It interprets the Tariff so as to determine what classification or rate of duty is applicable to a particular kind of goods; such a ruling does not alter the law, but merely states what is the view of the authority issuing the ruling, the law is already.

2. Strictly speaking, it has no legal force in the sense that there is no legal provision by which the Board is authorised to issue such Tariff Advice which are legally binding on all authorities subordinate to the Board.

3. In so far as a Tariff Advice seeks to explain what the law already is, it applies to all cases which are pending and open at the time of its issue. The cases which are open and yet to be decided at the time of issue of a Tariff Advice (such as in the present case in respect of classification of Collar Stays which were under objection by the Audit Department) are decided in the light of the Tariff Advice and to this extent it has retrospective effect.

(Approved by the Joint Secretary to the Government of India).
[F. No. 54/3/74-Cus(TU)]

Recommendation

The Committee find that in this case the drawback paid was more than the market price of the goods which is inadmissible. But according to the Ministry, a specific check that the market price is higher than the drawback amount is not necessary. The Committee maintain that it is necessary to ensure that the drawback amount does not in any case exceed the f.o.b. prices; this is un-questionably sound in principle and would also save Government from acquiescing in the absurd situation of buying foreign exchange at a premium.

[S. No. 17, Para 1.78 of PAC's 135th Report (1974-75)-5th Lok Sabha.]

Action taken

Under Section 76(1) (b) of the Customs Act, 1962 no drawback shall be allowed "in respect of any goods the market price of which is less than the amount of drawback due thereon". "Market price" as set out under Section 2(30) of the Act "means the wholesale price of the goods in the ordinary course of trade in India". The market price would necessarily be more than the drawback amount as the former would include the cost of raw materials including the duties paid on them, the cost of manufacturing processes and some profit, whereas the latter would comprise

only the duties paid on the raw materials. However, in view of the observation made by the Committee, instructions have been issued to all the Collectors of Customs and Central Excise that before sanctioning the drawback a specific check should be exercised carefully in each case to ensure that the amount of drawback sanctioned does not exceed the market price.

As regards F.O.B. price, it may be mentioned that the Customs Act does not stipulate that the drawback shall not exceed the f.o.b. price of the export goods. Though the drawback amount might generally be less than the f.o.b. price the drawback amount might some times be higher than the f.o.b. price, particularly when the drawback payable comprises customs duties paid at very high rates on raw materials imported at high c.i.f. prices. For instance, while considering the fixation of a rate of drawback on exports of Metallized Lacquered Polyester Film, it has been noticed that the principal raw material viz. Plain Transparent Polyester Film, which accounts for about 95 per cent of the duties paid on different raw materials (Aluminium wire, Vinyl Resin Vagh, Vinyl Resin VMCH etc.), was imported at a c.i.f. price of Rs. 28.70 per kg. and the Customs duty on it at the rate of 208 per cent worked out to about Rs. 59 per kg. This raw material, alongwith other raw materials has been used in the manufacture of the finished product namely Metallized Lacquered Polyester Film, the drawback rate on which works out to about Rs. 62 per kg. while the finished product itself has been exported at the f.o.b. price of Rs. 57.97 per kg., which appears to include some profit.

In the instance mentioned above, the drawback comprises the duties paid on the raw materials and as the duty burden to be relieved of by way of drawback is high, it happens to be higher than the f.o.b. price. The amount of drawback cannot be reduced or denied under the law, on account of its being higher than the f.o.b. price.

The relief being provided in the shape of drawback is in accordance with the internationally accepted practice of not burdening export goods with the duties levied on such goods in the exporting country. Unless such relief is provided, it would be difficult for the export goods to compete successfully in the international markets with similar goods of other countries. Without this relief by way of drawback, the exports might not take place. Payment of drawback, which is no more than the legal re-payment of duties paid on the raw materials used in the manufacture of the export products, does not appear to be objectionable as long as there is a reasonably significant added value in the f.o.b. realisation of the export product to the c.i.f. prices of the material contents.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 603/6/75-DBK dated 19-12-1975.]

Recommendation

The Committee are indeed amazed to see the manner in which this case was handled by no less a person than the Member, Customs himself. The question whether foreign agent's commission was to be excluded for the purpose of export duty had been pending with the Board since as early as September, 1968, when the exporter wrongly represented against inclusion of the commission by Cochin Custom House. While the matter was still pending and the Board would not arrive at a decision, the Member (Customs) made a visit to the Custom House at Cochin and directed the Collector to 'decide the case on merits' and this was also followed by a letter which was highly improper, and gives rise to serious suspicion. After the Collector allowed refund of duty amounting to Rs. 68,030, evidently as a result of the Member's visit and directive to the Collector, the Board issued a clarification only in October, 1970 that assessment of duty should be made on the price inclusive of foreign agent's commission. The Committee cannot escape from the conclusion that the undue haste shown in refunding the big amount could have been only possible by this direct intervention by the Board Member. Further, the delay in giving a clarification by the Board was responsible for allowing the irregular practice to continue in Bombay and Cochin Custom Houses involving very heavy loss of revenue.

[S. No. 18, Para 1.86 of PAC's 135th Report (1974-75)-5th Lok Sabha.]

Action taken

The facts of this case are that M/s. Sapt Textiles Products Indian Pvt. Ltd., Bombay had represented to the Board in September, 1968 that Cochin Custom House had been disallowing a commission of 5 per cent paid by them to the Swiss agents since 1966. The Board called for a report from the Collector of Customs. Shri D. N. Kohli, the then Collector, reported that two views were possible. When the matter was put up to Member (Customs) on 30-4-1969, he raised certain queries as to whether these agents function like selling agents or like sole agents. He also wanted to know how exactly the commission was paid and wanted to see a copy of the agreement. In June 1969, Member (Customs) visited Cochin Custom House to meet Chambers and Associations of Trade, Clearing Agents and staff and generally to see Customs work. During one of these meetings, this pendency of refund claims was brought to his notice. By this time there had been a change in the Collector. The previous Collector Shri D. N. Kohli was a member of the erstwhile Central Excise Service. The new Collector was Shri S. Venkataraman, a member of the erstwhile Indian Customs Service, and therefore, well versed in problems of Customs valuation. Member (Customs) told the new

Collector that the reference received earlier from his predecessor did not give full details relevant for deciding the issue and the Board have asked for the same. After getting all those particulars, the Collector may decide the case on merits. The exporter was informed accordingly on 3-7-1969. The endorsement to the Collector of Customs, Cochin was to the following effect:—

“In this connection he may recall M(Cus)’s verbal instructions during his visit to Cochin to decide the case on its merits after considering the nature of the agreement and all other relevant circumstances.”

By the time the firm produced the agreement etc., Shri M. C. Das had taken over as Collector. He directed that the views of other Custom Houses may be obtained. On 21-8-69, there had been a new distribution of work amongst Members and the work concerning valuation became henceforth the responsibility of Member (Tariff). After receipt of replies from the other Collectorates, the Collector of Customs, Cochin, decided the case in favour of the party and informed the Board on 6-11-69.

The reasons for allowing these were given by the Collector as follows:—

“The Custom House has not been able to establish any special relationship between these exporters and their foreign agents. The prices quoted after deducting commission have also been found to be fair as compared with other independent exporters’ prices.

As the Board’s orders in letter F. No. 23/41/55-Cus.I-VI dated 27-3-57 are still extant, and are not inconsistent with the provisions of the Customs Act, 1962; and as duty discount benefits on agency commission of such exports are being allowed by the Bombay Custom House, I have decided to allow the agency commission claimed by the two firms. The matter is reported to Board for information. All pending refund claims are being finalised accordingly.”

From the correspondence with the other Collectors which was sent by the Collector of Customs, Cochin, to the Board, it appeared that the matter was not free from doubt. The issue was, therefore, further examined and a general advice was issued on 14-10-70.

From the above narration of events, it would be evident that:

- (i) While the first reference was received from one Collector, the discussions had taken place between Member (Customs)

and the second Collector and the decision had been taken by the third Collector.

- (ii) The visit of Member (Customs) was in the course of his normal functions of visiting the ports. He met a number of Chambers and Associations of importers and exporters, Clearing Agents and the staff and discussed and settled a number of other issues during the visit.
- (iii) Long before the Collector took the decision, Member (Customs) was no longer concerned with the matter of valuation.
- (iv) The reference was received by the Board in September 1968, the discussions between Member (Customs) and Collector had taken place in June 1969 and the decision to refund the amounts was taken by the Collector in November 1969 showing that there was no undue haste.
- (v) The Collector had come to a reasoned finding on the basis of various considerations. The Collector of Customs, Bombay, had also come to the same finding. This shows that the decision was on valid grounds and could at the most be treated a genuine difference of interpretation.

The above points show quite clearly that there were no malafides on the part of any officer.

[Ministry of Finance (Department of Revenue and Insurance)
letter No. 512/8/75-Cus.VI dated 19-11-1975.]

Recommendation

Having regard to this huge loss of revenue the Committee desire that a thorough and expeditious probe should be carried out into the conduct of all the officials concerned, particularly the Member and the Collector, and that this probe should be entrusted to the Central Vigilance Commission. The Committee should also be informed of the outcome and action taken on this recommendation.

[Sl. No. 19 Para 1.87 of PAC's 135th Report (1974-75)—5th Lok Sabha.]

Action taken

Ministry's comments on para 1.86 would show that there were no *mala fides* on the part of any of the officials who dealt with this matter. With respect it is suggested that this matter does not appear to be such

as would call for any other probe as recommended by the Committee. The case was decided by the concerned officer in his individual judgment after mature consideration and reasons for the same were recorded. The Board did not influence the decision in any way as stated; on the other hand the Collector was asked by Member (Customs) to decide the case on its merits after considering the nature of the Agreement and all other circumstances. No cause for suspicion appears to arise. In these circumstances, any further probe as recommended would have an adverse effect on the morale of officers and would inhibit them in bringing to bear independence and objectivity upon the decisions made by them. It is therefore requested that the Committee may kindly reconsider their recommendations in this para and drop the matter.

[Ministry of Finance (Department of Revenue and Insurance)
letter No. 512/8/75-Cus.VI dated 19-11-1975.]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The Committee are concerned to find that during the year 1971-72 the variation between the budget estimates (Rs. 534 crores) and actuals (Rs. 695.67 crores) of the Customs Receipts amounted to Rs. 161.67 crores which work out to 30.28 per cent. In fact the percentage of variation is the highest recorded during the last 10 years. The two post budget levies *i.e.*, regulatory duty of customs imports and increase in export duty on carpet backing and other hessians accounted for variation only to the extent of about Rs. 24 crores. The bulk of the variation was due to larger imports than expected in respect of petroleum products, iron and steel and some other commodities, *viz.*, machinery, motor vehicle parts, chemicals and other industrial raw materials and fertilizers. Such a wide gap between the budget estimates and actuals points to the conclusion that the present system of estimating receipts of customs duty is seriously defective and undependable and that this has not even been realised shows lack of efficiency, at the top.

In pursuance of the recommendation made by the Committee in paragraph 6.1(c) of their 89th Report (5th Lok Sabha), Government appointed an Expert Committee in January, 1974 to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue. The Expert Committee in the report submitted in June, 1974 have expressed the view that a system which seeks to take as its quantitative base the past import levels of a large number of commodities which do not display a reliable trend and build on its qualitative judgment which again depends on hunches and informed guess work at various levels of estimation is not calculated to yield satisfactory results. The Expert Committee have suggested the use of a statistical method for forecasting customs revenue to provide a more accurate forecast of likely level of total imports in the budget year as well as the likely level of customs revenue. The Expert Committee have suggested that the Central Board of Excise and Customs should give urgent thought to further examination of possible statistical and econometric models for forecasting customs

revenue. The Committee desire that the necessary follow up action on the recommendations of the Expert Committee should be expedited and the progress reported to them.

[S. Nos. 1 & 2, paras 1.21 and 1.22 of PAC's 135th Report (1974-75)—
5th Lok Sabha.]

Action taken

Customs revenue is largely from import duties and this is, in the main, governed by a number of imponderables such as availability of foreign exchange, fluctuations in international prices, changes in import composition depending on industrial production in the country and the like.

2. The Expert Committee appointed by the Government on 7th January, 1974, to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue, submitted its Report in June, 1974. In its appraisal of the present system of estimating receipts of customs duties, the Committee has observed in para 3.1 of its Report that a great deal of care and effort is taken at every level in presenting as reasonable and as accurate a forecast of customs revenue as possible each year and that considerable amount of refinement and improvements have been brought about in the methodology and the procedures in recent years. However, given the well-known imponderables in the situation, such as fluctuations in international prices, constraints of foreign exchange availability, changes in import composition, and the like, even the great care that is taken has not resulted in a reasonably accurate system of forecasting. In spite of the basic and inherent limitations of the present system, referred to in the Report, the Committee has not suggested its complete elimination but has recommended that simultaneously work on forecasting by the statistical method should proceed apace and when sufficient evidence of the greater reliability of the statistical method is established, this method should be used to supplement the present method for forecasting of revenue and that for the next one or two years till a suitable statistical model can be devised, the present system as refined may continue to be employed.

The follow up action on the recommendations of the Expert Committee is indicated in the Annexure.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 342/10/75-TRU dated 18-8-1975.]

ANNEXURE

Serial No.	Recommendation	Action taken by the Government
1	2	3
1	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).	<p><i>Paras 3·8 and 3·9.</i> Although, the Expert Committee had observed in para 3·9 of its report that the estimates for the budget provided by the Custom Houses did not serve any useful purpose it was felt that these estimates which the Collectors furnished 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 estimates 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.</p> <p>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.</p> <p>A copy of the report has been forwarded to the Department of Economic Affairs and their attention invited to this recommendation for necessary action.</p> <p>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 residuary sub-head would be undertaken, after watching the actual collections thereunder during 1975-76.</p>
2	Estimates for the Budget year provided by the Custom Houses do not serve any useful purpose. Customs Houses should be asked to provide revised estimates of customs revenue and imports for the current year. The Central Board of 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)	
3	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).	
4	Following the recommendation of the Data 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).	
5	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 percent of the likely total import revenues (Para 3·19)	

6 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.

7 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 causes 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).

The observation of the Expert Committee has been brought to the notice of the Comptroller and Auditor General of India.

8 The Central Board of Excise and Customs should give urgent thought to further examination of the possible statistical and econometric models for forecasting customs revenue. We must stress that statistical formulae 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 Institute and/or the Central 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 by 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 & Customs is concerned directly with excise revenue as well. (Paras 4.8 and 4.9).

- 9 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 defined 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 & 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 Deptt. of Economic Affairs which is the relevant Department for the purposes of programming of next year's imports. (Paras.4.10 & 4.11)

Recommendation

A significant factor which came to the notice of the Committee was man with a view to regulating the quantity of goods imported from abroad and for exercising restraint on imports, the Government took powers from Parliament to impose regulatory duty of customs first in the Finance Bill, 1963 and a similar provision has continued to be made in subsequent Finance Bills on year to year basis. The provision was invoked only on 17th February, 1965, when regulatory duty at a flat rate of 10 per cent of the value of all imports with the exception of foodgrains, fertilisers, pesticides, books, etc. was imposed. It was withdrawn with effect from 6th June, 1966 consequent on devaluation, as it was considered that devaluation itself would restrain imports which was not correct. The levy was again imposed on 13th December, 1971 because of the need to put a restraint on imports in the context of war with Pakistan. The Committee, however, note that the actual realisation of regulatory duty was to the extent of Rs. 14 crores as against the anticipated revenue of Rs. 12 crores during the year 1971-72. If the enabling provisions were intended to impose a restraint on imports, the realisation should show a lower figure than anticipated and not an increase. In this connection, the Committee notice that the value of imports which was Rs. 1582 crores in 1969-70 and Rs. 1634 crores in 1970-71 went up to Rs. 1825 crores in 1971-72. The Committee feel that the power of the executive to enhance the levy authorised by Parliament is somewhat extraordinary and the exercise of the power so granted can be justified only if the intention is fulfilled. This does not appear to have happened. In order that Parliament may come to a proper appreciation of the position an evaluation of the imposition of regulatory duties on imports in the past should be given in every case.

[S. No. 3, Para 1.23 of PAC's 135th Report, (1974-75),
5th Lok Sabha]

Action taken

Para 1.23 of the Committee's Report reproduced above raises the following points with reference to the imposition of regulatory duty in the past:—

- (i) that in view of the actual realisation of regulatory duty during 1971-72 being higher than the anticipated proceeds, the purpose behind the levy *viz.* restraining imports was not achieved. If regulatory duty had the effect of restraining imports the revenue realisation from the levy would have been less than anticipated.
- (ii) that since the value of imports (Rs. 1825 crores) in 1971-72 was higher than the value of imports (Rs. 1634 crores) in 1970-71,

the purpose of the imposition of regulatory duty does not appear to have been achieved;

- (iii) that the contention that devaluation itself would act as a restraint on imports was not correct.

These points are analysed in the following paragraphs:—

2. The purpose behind the imposition of regulatory duty was to “restrain” imports which is not quite the same as reducing imports. A reduction means an absolute fall whereas restraint on imports would, on the other hand, mean that in the absence of the particular instrument of restraint (in the present case the regulatory duty), the imports would have been even higher than they actually were. Therefore, it cannot be said that just because the value of imports did not decline, imports were not restrained by the regulatory duty.

3. An increase in the value of imports in 1971-72 over that of 1970-71 cannot lead one to the conclusion that the purpose behind the imposition of regulatory duty in December, 1971 was not achieved. For judging the impact of imposition of regulatory duty in December, 1971 (which is in the year 1971-72), comparison has to be made of the imports in 1971-72 with those in 1972-73. Moreover, such a comparison has to be in terms of quantity and not value of imports for if there is a rise in the rupee cost of imports as happened when there was a devaluation of the rupee, even with a reduced quantum, the value of imports could be higher. The quantum index of imports (1958=100) compiled by the D.G.C.I. & S., Calcutta shows that there was a fall in imports in real terms, the quantum index having declined from 139 in 1971-72 to 133 in 1972-73, and at least, a part of this decline has to be attributed to the levy of regulatory duty.

4. The purpose of devaluation as a policy instrument is (a) to raise the local currency unit cost of imports and thus bring about a fall in total imports, and (b) to lower the unit cost of exports in foreign exchange and thereby to promote exports. Here again, an examination of the relevant figures in value terms is misleading. The quantum index of imports (1958 = 100) declined from 154 in 1965-66 to 149 in 1966-67 which shows that in 1966, devaluation did succeed in restraining imports. It must be added, however, that devaluation seeks to bring the cost-price structure of a country in line with the rest of the world. If this structure again gets out of line because of inflationary pressures etc., obviously its purpose of restraining imports and increasing exports would not be fulfilled.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 342/11/75-TRU, dated 20-2-1976]

Recommendation

The Committee regret to observe that in this case failure of the Custom House to scrutinize the contract resulted in under assessment of custom duty to the extent of Rs. 19,757. The Customs had assessed the goods on the basis of invoices in which the values were for 95 per cent of the weight of goods shipped. The under-assessment was detected on the scrutiny of the contracts at the instance of Audit. The Committee are unhappy that Internal Audit Department could not detect the mistake.

It was the duty of the importer to bring to the notice of the Custom House that invoices were provisional. The Committee note that the importer in this case is a public undertaking, and therefore no action was taken against them. The Committee desire that correct procedure should be followed by all Public Undertakings. It is the normal practice that goods should be cleared by an authorised agent. If that is so, then the Committee would suggest that action should be taken against him for his failure in not producing the original contract and invoices on his own accord under advice to the Committee.

[S. Nos. 12 and 13, paras 1.63 and 1.64 of PAC's 135th Report
(1974-75), 5th Lok Sabha]

Action taken

The observations of the Public Accounts Committee have been noted and necessary instructions in the matter have been issued, a copy of which is enclosed. (Annexure).

[Ministry of Finance (Department of Revenue and Insurance) O.M. No.
512/1/75-Cus.VI, dated 17-11-1975]

Annexure

F. No. 512/1/75-Cus. VI

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 19th April, 1975.

From

The Under Secretary,
Central Board of Excise & Customs.

To

The Collector of Customs,
Bombay/Calcutta/Madras/Cochin.

The Collector of Central Excise,
Madurai/Bangalore/Ahmedabad/Guntur.

The Deputy Collector of Customs,
Visakhapatnam/Goa/Bhubaneshwar.

The Asstt. Collector of Customs,
Kandla.

Sir,

SUBJECT.—*Public Accounts Committee—Audit Para No. 8 (1971-72)—
135th Report (5th Lok Sabha) 1974-75—Para Nos. 1.63 and
1.64—Conclusions/Recommendations.*

I am directed to invite your attention to para 8 of the Audit Report for the year 1971-72 (copy enclosed) in which incorrect assessments were pointed out at Visakhapatnam and Kakinada Custom Houses resulting in short levy.

2. Though the invoices in these cases showed value for only 95 per cent of the Bill of Lading quantity, the nature of deduction was not indicated therein. In the circumstances the concerned Appraisers and the Auditors in the I.A.D. should have questioned the importers regarding the reasons for the said deduction. The under-assessment was detected on scrutiny of the contracts at the instance of Central Revenues Audit. The observations of Public Accounts Committee in this regard are reproduced below:

“The Committee regret to observe that in this case failure of the Custom House to scrutinize the contract resulted in under-assessment of custom duty to the extent of Rs. 19,757. The Customs had assessed the goods on the basis of invoices in which the values were for 95 per cent of the weight of goods shipped. The under-assessment was detected on the scrutiny of the contracts at the instance of Audit. The Committee are unhappy that Internal Audit Department could not detect the mistake.”

3. In these cases, the importers, State Trading Corporation, a Public Sector Undertaking, did not mention at the time of assessment that the invoices were provisional and even when the final invoices were received from the suppliers, the State Trading Corporation did not produce them before the Custom House which they are required to do as per the declaration subscribed by them on the Bill of Entry.

On this point the PAC have observed as below:

“It was the duty of the importer to bring to the notice of the Custom House that invoices were provisional. The Committee note that

the importer in this case is a public undertaking and therefore no action was taken against them. The Committee desire that correct procedure should be followed by all Public Undertakings. It is the normal practice that goods should be cleared by an authorised agent. If that is so, then the Committee would suggest that action should be taken against him for his failure in not producing the original contract and invoices on his own accord under advice to the Committee."

4. It is desired that in the light of the Committee's observations you may kindly issue instructions to all concerned and take other appropriate measures and a compliance report may be sent to the Board immediately.

5. The receipt of this communication may please be acknowledged.

Yours faithfully,

Sd./- V. S. NAIK,

Under Secretary,

Central Board of Excise and Customs.

Report of the Comptroller and Auditor General of India for the year 1971-72 Short levy of additional duty

In two Customs ports, bulk imports of rock phosphates were charged to additional duty on the basis of invoices produced. The values on the invoices were for 95 per cent of the weight of goods shipped. That the assessment on this basis was not correct was pointed out in Audit in January, 1970 in one port and in October, 1970 in another port. The Custom Houses thereafter called for contracts and scrutinised, when it transpired that the payment of 95 per cent of weight of goods was provisional and the balance of 5 per cent was payable on importation. A short recovery of Rs. 19,757 was realised.

The Ministry have stated that the Custom House charged countervailing duty under the impression that the invoices produced by the party were final.

Recommendation

The Committee find that the earliest consignment stored in this godown was of May 1967. This shows that the goods had been stored for more than 3 years and no action was taken to dispose them of; some of which could deteriorate in value. The Committee are of the view that confiscated goods should be disposed of expeditiously and ordinarily, the disposal should take place within three months of the confiscation. This would

ensure the maximum realisation and at the same time, reduce the possibility of deterioration in quality as also of theft. The Committee would like to be informed about the reasons for delay in this case.

[S. No. 23, Para 1.107 of PAC's 135th Report (1974-75)-5th Lok Sabha.]

Action taken

The observations of the Committee that confiscated goods should be disposed of expeditiously have been noted. As regards disposal within three months of the confiscation it may be mentioned that except in the case of perishable goods, the confiscated goods are held back from disposal until the appeal period is over. This period is ordinarily three months and can be extended by another 3 months in special circumstances. If the appeal is filed then the goods do not become ripe for disposal until the appeal is disposed of. There is also a provision for revision application against the decision in appeal. The time limit for this is 6 months which can be extended by another 6 months in special circumstances. If the revision application is filed the goods do not become ripe for disposal till the revision application is disposed of. The confiscated goods also do not become ripe for disposal where the goods become the subject matter of court proceedings until the proceedings are decided upholding the confiscation of the goods. Where finalization of court proceedings is likely to take time the courts are approached to accord their permission for disposal of goods particularly where goods are likely to deteriorate and for holding the sale proceeds in deposit. Where, however, appeals and revision applications are not filed in time the goods can be taken up for disposal as soon as they are ripe for disposal.

In the cases covered by the theft of August, 1970, it has been ascertained from the Collector that out of the 13 consignments involved, 7 had not been adjudicated, in five adjudication had taken place between November, 1969 and March, 1970 and in one case appeal had been rejected in May, 1970 and in these cases disposal action was pending for want of clear information regarding whether appeal/revision application had been filed.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 561/4/75-LCII- dated 16-8-1975.]

Recommendation

The Committee note that during the year 1971-72 the total loss of goods from the Customs' custody due to theft and other causes amounted to Rs. 27,542. The Committee require that the Board must ensure that there are proper security arrangements in the Customs godown. All cases of major losses and theft should be reviewed by the Board to ascertain

whether there was any collusion. To guard against clandestine removal of goods and later on covering it up as theft, there should be frequent surprise verification of goods by higher Departmental officers.

[S. No. 25, Para 1.109 of PAC's 135th Report (1974-75)-5th Lok Sabha.]

Action taken

The observations of the Committee have been noted. Necessary instructions have also been issued to all Collectors in accordance with the observations of the Public Accounts Committee.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 561/6/75-LCII dated 15-12-1975.]

Recommendation

The Committee feel concerned to find that in this case the seized vessel carried unmanifested goods of the order of 40 tons. According to the Ministry it is likely (mere guess) that the unmanifested cargo was loaded beyond the port limits. The Committee are surprised how such huge bulk of goods could be loaded in a vessel beyond the port limit in mid-sea without docking and platform facilities. The Committee, therefore, maintain that the matter needs further investigation as to where the unmanifested goods were loaded and whether there was failure on the part of Customs Officers.

[S. No. 26, Para 1.121 of PAC's 135th Report (1974-75)-5th Lok Sabha.]

Action taken

Two Senior Officers were deputed to investigate as to wherefrom the unmanifested goods were loaded and whether there was failure on the part of Customs Officers. They studied the matter in depth. There are two distinct possibilities in this regard to the placing of the cargo on board the vessel. The unmanifested cargo could have been loaded at Calicut port during the period the vessel was lying in anchor in the port. The second possibility is the cargo like the illicit emigrant could have been loaded at mid sea after the vessel took port clearance. They have stated that the statements of the crew of M.S.V. Shaman and the illicit emigrants give an impression that the unmanifested cargo found on board the vessel, might have been loaded during the period M.S.V. Shaman was lying in anchor at mid sea at Calicut port. At best this impression can only be a presumption or suspicion. In their opinion it cannot be conclusively established at what point of place the unmanifested cargo was loaded in the M.S.V. Shaman.

The loading of the authorised cargo for these vessels takes place only at mid sea at Calicut port. The export vessels always remain at a distance

of 3 to 5 Km. and the cargo after completion of customs formalities are loaded into lighters who convey the cargo to the vessel lying in anchor in the mid sea. The facilities like berthing alongside of wharf and platform arrangements for loading of cargo as found in major ports are not available in minor ports like Calicut. In the Calicut port there is a large traffic of lighters carrying cargo to the sailing vessels. The foreign and local cargo are segregated at the North & South piers on the coast, but after the lighters leave the piers, there are difficulties in segregating them. The goods for export are covered by boat notes to enable checking. Unauthorised loading from anywhere along coast is sought to be prevented by intelligence and preventive measures in general, by way of anti smuggling operations.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 561/7/75-LCII dated 16-8-1975.]

CHAPTER V

RECOMMENDATIONS/OBSERVATION IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

The Committee are at a loss to understand how the mistakes could not be detected both at the time of checking the bills at the project site in October, 1964 and January-February, 1966 and in the course of Internal Audit when Revenue Audit could detect them which confirms the usefulness of Revenue Audit. Further, they see no reason why it should have taken a year to reply to the Audit objection in the first case which was raised in June, 1970. In this connection the Committee would remind the Government that they have time and again impressed upon the Board the need to take prompt action on Audit objections. They would, therefore, require suitable action against the delinquent officers for all the above lapses after fixing the responsibility particularly in the higher cadres under advice to the Committee.

[S. No. 5, Para 1.35 of PAC's 135th Report (1974-75)-5th Lok Sabha.]

Action taken

The recommendations of the Public Accounts Committee that prompt action should be taken by the Custom Houses on the objections raised by the Audit have been brought to the notice of all the Customs and Central Excise formations for strict compliance in future. *vide* Circular No. 12/1975, dated the 16th August, 1975 enclosed (Annexure.)

2. The question of fixing the responsibility for the lapses observed by the Public Accounts Committee in this case has been entrusted to the Director of Inspection Customs and Central Excise, New Delhi and the Committee will be apprised of the action taken as soon as possible.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 512/6/75-Cus.VI dated 23-12-1975.]

Circular No. 12/1975

Annexure

F. No. 512/6/75—Cus. VI

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPTT. OF REVENUE AND INSURANCE)

New Delhi, the 16th August, 1975.

From

The Under Secretary to the Government of India.

To

All Collectors of Customs,
 All Collectors of Central Excise,
 The Deputy Collectors of Customs,
 Visakhapatnam/Panaji (Goa) Bhubaneswar,
 The Assistant Collector of Customs, Kandla.

SUBJECT.—*P.A.C.—Recommendations (Para 7.35)—Prompt action to be taken on Audit objections—Instructions regarding.*

Sir,

While considering an Audit para, the Public Accounts Committee in their 135th Report (5th Lok Sabha) 1974-75 have observed that the Department had taken a year to reply to the Audit objection raised by the Revenue Audit. The Committee have therefore, desired that prompt action should invariably be taken in such Audit objections. An extract of their recommendations is enclosed. The recommendations of the Public Accounts Committee may kindly be noted for future guidance and compliance.

The receipt of this letter may please be acknowledged.

Encl. 1

Yours faithfully,

Sd./- (V. S. NAIK).

*Under Secretary to the Government of India.***PUBLIC ACCOUNTS COMMITTEE****(1974-75)****(FIFTH LOK SABHA)****Para No. 1.35.**

The Committee are at a loss to understand how the mistakes could not be detected both at the time of checking the bills at the project site

in October, 1964 and January-February, 1966 and in the course of Internal Audit when Revenue Audit could detect them which confirms the usefulness of Revenue Audit. Further, they see to reason why it should have taken a year to reply to the Audit objection in the first case which was raised in June, 1970. In this connection the Committee would remind the Government that they have time and again impressed upon the Board the need to take prompt action on Audit objections. They would, therefore, require suitable action against the delinquent officers for all the above lapses after fixing the responsibility particularly in the higher cadres under advice to the Committee.

Recommendation

Another unsatisfactory feature of this case is that there was undue delay in finalising the provisional assessment made under special project procedure. The contracts were registered on 1st December, 1961 and the imports against the contracts were spread over a period of 8 years in case of cross rails and 7 years in case of surface measuring instruments. The assessments have not yet been finalised as the final reconciliation statements have not been submitted by the importer. The Committee are not satisfied with the delay of 5-6 years in finalisation of the assessments after the last importation. The Committee desire that this matter should be vigorously pursued with the State Undertaking concerned and the Committee apprised of the progress. A general review in this regard in all the Customs Houses also appears called for. For instance in Calcutta Customs House, out of 50 contracts registered during the period 1961—73, none is current at present and it is not at all clear whether all the provisional assessments relating to them have been finalised. The Committee would await the results of the review as well as the action taken to stop repetitions.

[S. No. 6, Para 1.36 of PAC's 135th Report (1974-75)—
5th Lok Sabha]

Action taken

The observations of the Public Accounts Committee contained in this recommendation have been noted and the concerned Custom Houses have been instructed to pursue the matter vigorously with the concerned State Undertakings for submitting reconciliation statements in respect of contracts against which imports have already been completed. A review of all the contracts registered under the Special Procedure upto 1973 has also been undertaken by the Collectors concerned at the respective ports. The results of this review will be intimated to the Public Accounts Committee as soon as completed.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 512/6/75—Cus. VI, dated 23-12-1975]

Recommendation

From the figures furnished to the Committee they find that while the number of contracts still current in the major Custom Houses of the country is of a negligible order (12 in Madras Customs House, none in Calcutta Custom House and 7 in Bombay Custom House), the pendency of contracts in Visakhapatnam Custom House is abnormally high and out of 867 contracts registered during the period 1961—73, the number of contracts which are still current is 572. Out of these, as many as 143 contracts relate to the period 1961—63. In the opinion of the Committee it would not be in the public interest to allow the contracts to continue for an indefinite length of time as it is always fraught with the risk of loss of documents and of goods becoming unidentifiable. The Committee, therefore, desire that a suitable time-limit, say 3 years should be prescribed for the currency of such contracts under the special procedure.

[S. No. 7, Para 1.37 of PAC's 135th Report (1974-75) 5th Lok Sabha]

Action taken

It has been ascertained from the Visakhapatnam Custom House that at present there are 34 contracts (special procedure) relating to the period 1961—63, pending finalisation in the Custom House. These contracts are pending for want of certain documents/clarifications from the importers.

2. In this connection it may be mentioned that since most of the projects covered by the 'special procedure' are worth several crores of rupees, the imports are spread over long periods.

3. The currency of a contract depends upon several factors such as supply schedule, construction schedule, special requirements of designs etc. of the importers, availability of raw materials etc. Completion of projects therefore take sometimes a number of years. Any insistence on a time limit as suggested by the Committee may become difficult to observe in many cases. The matter has, however, been taken up with the Ministry of Industrial Development and will be examined further to see if it is possible to fix time limits for different kinds of projects and the circumstances in which extensions may be granted.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 512/6/75-Cus. VI dated 23-12-1975]

Recommendation

The Committee observe that in this case the Internal Audit Department failed to detect even an ordinary arithmetical mistake resulting in excess payment of drawback amount of Rs. 11,728/-. It is indeed regrettable that such a mistake should have been overlooked even after reorganisation

of the Internal Audit Department. The Committee would suggest that the Ministry should lay down suitable norms of work that may be expected from an Upper Division Clerk and provide the staff accordingly. They make this suggestion as they find that in this case, there were only 13 Upper Division Clerks in the Internal Audit Department of the Custom House at the material time and the number of drawback claims disposed of was over 1,22,300 which works out to 30 to 40 claims per day by an Upper Division Clerk which is indeed too much to be expected.

[S. No. 16, Para 1.77 of PAC's 135th Report
(1974-75)—5th Lok Sabha]

Action taken

When Internal Audit Departments in the Customs Houses were re-organised in 1969, a norm of 20 drawback claims per day had been taken as the basis, in consultation with the Directorate of Inspection (Customs and Central Excise). As suggested by the Committee, the Directorate of Inspection (Customs and Central Excise) have been asked to review the staff strength in the Internal Audit Department by undertaking field studies of the increasing work load and the staff sanctioned at various levels to attend to the pre-audit of drawback claims in the different Custom Houses. In view of the need for economy, they have also been asked to review the quality and technique of audit checks and suggest measures for improvement in both quantity and quality of output in audit check taking into consideration increasing complexities in work, if any. The norms of work wherever necessary are also to be reviewed accordingly for prompt and efficient performance of the pre-audit work. On the basis of such studies, they have been asked to make suitable recommendations for augmentation of staff at various levels.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 603/7/75—DBK dated 19-12-1975]

Recommendation

The number of exemption notifications operative during the year 1971-72 was 351. This figure consists of 131 notifications issued under Section 23 of the Sea Customs Act, 1878 and 220 issued under Section 25(1) of the Customs Act, 1962. The Committee note that exemptions on export duties may be justified to some extent to sustain exports under certain conditions. The Committee feel that on the import side there should not be many exemptions, when the objective is to achieve restraint on imports. The Committee suggest that with this end in view the Ministry should review the existing exemptions on the import side. In the case of concessions under the General Agreements on Trade and Tariff given with reference to articles, it should be examined whether there could be tariff rates equivalent to effective rates. It should also be examined whether in the case of imbalance in

duties and cost of raw materials and finished goods, tariff anomalies could be adjusted in the tariff itself, because raw materials and finished goods are assessable under different tariff items. As most of the exemption notifications affecting the tariff have been current for a number of years a review is urgently called for, before the next Finance Bill, with a view to seeing the extent to which they can be embodied in the Statute rather than being continued automatically under executive powers for all time. The Committee would await the outcome.

[S. No. 30 Para 1.137 of PAC's 135th Report (1974-75—5th Lok Sabha)]

Action taken

The suggestion of the Committee that the existing notifications on import side should be reviewed with a view to achieving restraints on imports has been noted and action has been initiated to review the existing notifications.

2. In so far as concessions given under GATT bindings are concerned, the position has been examined in the light of the action required to be taken in connection with the introduction of the new Customs Tariff Act, 1975. It is felt that many of the GATT bindings would have to undergo change following the introduction of the new BTN-based tariff. The possibility of seeking a general waiver under Article XXV of the GATT before bringing the new tariff into effect is also under consideration in consultation with the Ministry of Commerce and Department of Economic Affairs. In this context the question of making the GATT exemptions part of the statute itself would have to be deferred till policy decisions on these inter-connected issue are taken.

3. As regards the suggestion that in the case of imbalance in duties and cost of raw materials and finished goods, tariff anomalies could be adjusted in the tariff itself, because raw materials and finished goods are assessable under different tariff items, it may be explained that in a number of cases raw materials are, on full justification and merit, considered for duty exemption conditional on use in the production of specified goods or when definitely known to be intended for such uses. Such reliefs are not required to be extended to the same raw materials when imported for other end-uses. Such lower duty treatment cannot therefore be incorporated in the tariff itself. Wherever, however duty rates on certain raw materials have by notification been reduced unconditionally, the possibility of all such reduced effective rates being incorporated in the tariff itself without affecting the basis scheme of the BTN-based nomenclature of the tariff will be considered.

4. As regards the suggestion for an urgent review of exemption notifications which have been in force for a number of years, action has, as indicated in para 1 above, been initiated. To what extent the exemption notifications which have been in force for a number of years could be incorporated in the tariff could be considered after gaining some experience of the actual working of the BTN-based tariff Schedule of the recently enacted Customs Tariff Act, 1975.

[Ministry of Finance (Department of Revenue and Insurance
O.M. No. 369/4/75-Cus-I dated 29-1-1976)]

NEW DELHI;

March 9, 1976.

Phalguna 19, 1897 (S).

H. N. MUKEJREE.

Chairman,

Public Accounts Committee.

APPENDIX

Conclusions/Recommendations

Sl. No.	Para No.	Ministry Concerned	Conclusions/Recommendations
1	2	3	4
1	1-3	Ministry of Shipping and Transport	<p>It is distressing that in spite of repeated exhortations, Ministries are still remiss in informing the Committee of the action taken or proposed to be taken on their recommendations within the prescribed period of six months. In the present case referred to above, the Committee are yet to be told of the action taken on the recommendation contained in paragraph 1.55 of the 135th Report, though nearly ten months have elapsed since the presentation of the Report, and the attention of the Ministry of Shipping & Transport had also been specifically drawn to the Committee's recommendation by the Department of Revenue & Insurance as early as July 1975. This is not the first occasion when there has been a default by the Ministry in this regard. It would, therefore, appear that adequate attention is not being paid by the Ministry to the processing of the Committee's recommendations. The Committee take a serious view of this default and desire that the reasons therefor should be gone into and appropriate action taken. The current modalities for the processing of the Committee's recommendations should be reviewed and suitable remedial</p>

measures adopted. The action taken by the Ministry in the present case particularly should be intimated to the Committee forthwith.

2 15 Ministry of Finance
(Department of Revenue
& Insurance)

The Committee expect that final replies, duly vetted by Audit, in respect of those recommendations/observations to which only interim replies have so far been furnished will be submitted to them without further loss of time.

3 1-10 Do.

The Committee have on many occasions sought to impress upon Government the need for a more scientific and realistic formulation of the budget proposals so that the widening gap between the estimates and actuals could be reduced. An Expert Committee, appointed in January 1974 in pursuance of the Committee's recommendation contained in paragraph 6.1(i) of their 89th Report (Fifth Lok Sabha), to suggest ways and means of achieving a more accurate and scientific forecasting of Customs revenue, had, *inter alia*, recommended, as early as June, 1974, the use of statistical methods for the purpose and had wanted also the establishment of an Analytical Statistical Budget Forecasting Cell in the Central Board of Excise and Customs. The Committee are concerned that there has been no final decision in this regard even after the lapse of a considerable time. This recommendation of the Expert Committee should not be too difficult to implement, and the Committee trust that the Cell would be set up without further delay and that the annual budgetary exercises would be made on a more meaningful basis.

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4 1-11 Do.

The Expert Committee had also suggested that the Central Board of Excise and Customs should consider approaching the Indian Statistical Institute and/or the Central Statistical Organisation for assistance in

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working out more refined statistical forecasting techniques. The Committee would like to be informed of the follow-up action, if any, taken in pursuance of this suggestion.

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1.12

Department of Revenue
& Insurance

Department of Economic
Affairs

The Committee note that two other important recommendations of the Expert Committee relating (i) to the strengthening of the existing machinery in the principal public sector import/export agencies for data collection and for forecasting their future import programmes, and (ii) to the establishment of a short-term forecasting cell in the Department of Economic Affairs which should, *inter alia*, attempt the task of forecasting international prices, have been referred to the administrative ministries and public sector agencies concerned for necessary action. While the Committee naturally expect to be appraised of the action taken in this regard by the relevant agencies, they would also stress 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 would suggest that the Department of Economic Affairs which is most closely involved in the matter, should play a leading role in this regard.

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1.15

Ministry of Finance
(Department of Revenue
& Insurance)

The Committee find that the reply furnished by the Department of Revenue & Insurance in regard to their observations relating to the imposition of the regulatory duty of Customs, is silent on their recommendation that an evaluation of the imposition of the regulatory duties on imports in

the past should be given in every case to enable Parliament to come to a proper appreciation of the position. It is incumbent on Parliament to satisfy itself that the exercise by the executive of its delegated power to levy regulatory duties has in fact fulfilled the objectives in view. The Committee attach considerable importance to this recommendation and would like to be apprised of the action proposed to be taken in this behalf.

7 1-16 Do.

The attempts made by the Department to justify the imposition of the regulatory duty to restrain imports from abroad, on 13th December, 1971, appear to the Committee to be based on certain hypothetical assumptions. The Committee would have been happier if Government could have made available to the Committee more concrete facts in support of their contention.

8 1-19 Do.

The Committee note that in pursuance of their recommendation contained in paragraph 1.36 of the Report, a review of all the contracts registered under the Special Project Procedure upto 1973 has been undertaken by the Collectors of Customs concerned. While the Committee would await the results of the review which needs to be expedited, they would like to be informed of the specific steps contemplated or adopted in order to streamline the existing procedures for assessments under the Special Procedure so as to ensure that the provisional assessments made under this procedure are finalised within a reasonable time.

9 1-20 Do

While it is encouraging that the number of contracts relating to the period 1961-63 pending finalisation in the Visakhapatnam Custom House

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10	1.21	Ministry of Finance (Department of Revenue & Insurance) Industrial Development	<p>has been brought down to 34, the Committee feel that there is still considerable scope for improvement. They would urge vigorous steps to finalise these old contracts without loss of time.</p> <p>The Committee conceded that it would be difficult to prescribe a rigid and uniform time limit for the currency of contracts under the Special Procedure in all cases. Every endeavour should, however, be made to ensure that the provisional assessments made under the procedure do not fall into arrears and the final assessments are completed promptly. It should also be possible to evolve a suitable categorisation of different kinds of projects on the basis of their scope and magnitude, and to prescribe suitable time limits for the finalisation of contracts in respect of each of such categories. The Committee note that this question is being examined further in consultation with the Ministry of Industrial Development and would urge Government to arrive at an early decision in the matter.</p>
11	1.24	Ministry of Finance (Department of Revenue & Insurance)	<p>The Committee, in their earlier Report, had specifically suggested that appropriate action should be taken against the authorised clearing agent, if any, in this case for his failure in not producing the original contract and invoices on his own accord. It is not clear from the Department's reply whether this aspect has been examined and necessary action initiated. The Committee, therefore, wish that this should be looked into quickly, in case this has not already been done, and a more specific clarification conveyed forthwith.</p>

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Do.

It would appear from the details now furnished by the Department of Revenue & Insurance in regard to the cases covered by the theft of August 1970, that as many as 7 out of the 13 consignments involved had not been adjudicated and that in respect of 5 other consignments the adjudication had taken place between November 1969 and March 1970. The Committee have taken up for examination this year (1975-76) cases of delay in adjudication of goods seized by Customs Houses and the position that emerges out of this examination is rather disturbing. While the Committee would deal with this question in detail later, they are anxious that all the prescribed formalities should be completed in the least possible time and the goods confiscated disposed of expeditiously to ensure the maximum realisation and to reduce the possibility of theft and of deterioration in quality. The Committee would, therefore, suggest a thorough review of the existing procedures for the adjudication, confiscation and disposal of seized goods and the adoption of necessary remedial measures thereafter. In any case, in respect of cases of confiscation where appeals or revision applications have not been filed within the prescribed periods, it should not be too difficult to dispose of such goods with the utmost expedition to the best advantage of Government.

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Do.

The Committee also observe from the Department's reply that in respect of those cases in which the adjudication proceedings had been completed, the disposal action was kept pending in the absence of clear information regarding the filing of appeals/revision applications. It would appear that a communication gap exists at present between the different authorities concerned. The Committee cannot understand how such a

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situation had been allowed to develop and would like an explanation. The Central Board of Excise and Customs should also ensure that the methods now current for the interchange of information between different agencies which process cases of seizure and confiscation are properly streamlined and all bottlenecks eliminated.

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1.31

Ministry of Finance
(Department of Revenue
& Insurance)

It is not clear from the Department's reply whether the Central Board of Excise and Customs have undertaken a review of all cases of major losses and thefts from Customs godowns with a view to ascertaining whether there was any collusion on the part of the Customs staff. The Committee desire that such a review, if not already made, should be conducted early and the results intimated.

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Do.

The Committee regret that the investigations conducted by two senior officers have failed to establish conclusively the place from which the unmanifested goods were loaded in the seized vessel. However, since the presumption is that the goods might have been taken on board the vessel while it was lying in anchor at mid-sea at Calicut port and in view of the fact that the loading of the authorised cargo also takes place only at mid-sea in this port, it is incomprehensible how goods of such bulk (40 tons) could have been taken on board undetected. It would, therefore, appear that the customs surveillance must have been lax, if not altogether non-existent. If the goods had been loaded alongwith other authorised export cargo covered by valid customs documents, unmanifested goods of such

bulk should obviously have been noticed by the rummaging officer who rummaged the vessel before permitting it to sail from the port. The Committee would, therefore, like to be satisfied that the prescribed checks had, in fact, been carried out. If laxity or collusion on the part of the Customs staff comes to light, appropriate action should be taken against the delinquent officials.

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In the light of the difficulties experienced in segregating at the port lighters carrying local and foreign cargo to vessels anchored at mid-sea, the Committee feel that it would be advisable to take special steps to strengthen the existing customs checks at the port in order to prevent the loading of unmanifested cargo on vessels on foreign runs.

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