

THIRTY-SEVENTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1985-86)

(EIGHTH LOK SABHA)

CUSTOMS RECEIPTS--DUTY EXEMPTION
ENTITLEMENT SCHEME

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action Taken on 230th Report (7th Lok Sabha)]



Presented in Lok Sabha on 4-4-1986

Laid in Rajya Sabha on 23-4-1986

LOK SABHA SECRETARIAT
NEW DELHI

March, 1986 / Phalguna, 1907 (S)

Price : Rs. 2.50

**CORRIGENDA TO THIRTY-SEVENTH REPORT
OF THE PUBLIC ACCOUNTS COMMITTEE
(EIGHTH LOK SABHA)**

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PUBLIC ACCOUNTS COMMITTEE
(1985-86)

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Shri E. Ayyapu Reddy

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(iv)

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1. **Shri N.N. Mehra**—*Joint Secretary*
2. **Shri K. H. Chhaya**—*Chief Financial Committee Officer.*
3. **Shri Brahmanand**—*Senior Financial Committee Officer.*

INTRODUCTION

1. I, the Chairman of Public Accounts Committee as authorised by the Committee, do present on their behalf this Thirty-Seventh Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Two Hundred and Thirtieth Report (Seventh Lok Sabha) on Customs Receipts—Duty Exemption Entitlement Scheme.

2. In their 230th Report, the Committee had pointed out various defects in the operation of the Duty Exemption Entitlement Scheme. The Committee had recommended that Government should undertake a comprehensive review of the Scheme after collecting complete data from the field formations so as to identify the loopholes and deficiencies in the working of the Scheme and initiate necessary corrective measures. In this Report, the Committee have observed that in pursuance of their recommendation, Government have entrusted a comprehensive review of the Duty Exemption Entitlement Scheme to the Indian Institute of Foreign Trade. The Committee have also noted that without waiting for the results of that assessment, the Government have taken a number of steps like monitoring of the entire Scheme by the Ministry of Commerce, Computerisation, etc. and streamlining of the administrative procedures of the Scheme. The Committee have desired that the comprehensive review and its follow-up measures be taken promptly to ensure that the Duty Exemption Entitlement Scheme fully subserves its purpose and is not allowed to be abused by the unscrupulous elements.

3. In their earlier Report, the Committee had commented upon certain cases involving misappropriation of materials imported under the Scheme *ibid* and the admitted failure of the authorities to impose severe penalties on offenders. In this Report, the Committee have reiterated their earlier recommendation that Government should consider the feasibility of omitting such items from the purview of the Scheme where the duty incidence was very high or where there was a high premium on the imported materials in the indigenous market. Alternatively, at least levy of a minimum penalty equal to the premiums on such products in the Indian market may be made obligatory.

4. The Committee considered and adopted this Report at their sitting held on 20 March, 1986. Minutes of the sitting form Part II of the Report.

5. For facility of reference and convenience, the recommendations and observations of the Committee have also been reproduced in a consolidated form in the Appendix to the Report.

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

NEW DELHI;
21 March, 1986
30 Phalguna, 1907 (Saka)

E. AYYAPU REDDY
Chairman
Public Accounts Committee

CHAPTER I

REPORT

This Report of the Public Accounts Committee deals with the action taken by Government on the recommendations and observations of the Committee contained in their Two Hundred and Thirtieth Report (Seventh Lok Sabha) on Paragraph 1.25 of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil) Revenue Receipts, Volume I, Indirect Taxes relating to Customs Receipts—Duty Exemption Entitlement Scheme.

1.2. The 230th Report of the Committee was presented to Lok Sabha on 27 August, 1984 and contained 17 recommendations/observations. Action taken notes in respect of all the recommendations/observations have been received from Government. These have been categorised as follows:

(i) Recommendations and observations that have been accepted by Government:

Sl. Nos. 1 to 6, 8 to 11, 13 to 16.

(ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government:

Sl. Nos. 7 and 17.

(iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration:

Sl. No. 12.

(iv) Recommendations and observations in respect of which Government have furnished interim replies:

—NIL—

1.3. The Committee will now deal with action taken by Government on some of their recommendations.

Comprehensive Review of Duty Exemption Entitlement Scheme

..(S. No. 16, Paragraph 1.113)..

1.4. **Duty Exemption Entitlement Scheme** was introduced in 1976 as an export promotion measure. Under this scheme, raw materials and components imported under advance licences for execution of export orders are exempted from levy of customs duty. Responsibility for ensuring discharge of export obligation by an importer is entrusted to the Office of the Chief Controller of Imports and Exports. The importer executes bonds for payment of duty on the imported items in the event of failure to discharge the export obligation. The Customs authorities act as agents of licensing authorities and make endorsements in the **Duty Exemption Entitlement Certificates (DEEC)** issued by the licensing authorities when exports are effected. The bonds are cancelled by the licensing authorities on the discharge of export obligation by the importers.

1.5. In their 230th Report, the Committee had observed that in **Bombay Custom House**, as against imports of goods valuing Rs. 1.98 crores, Rs. 1.22 crores, Rs. 4.44 crores and Rs. 50.71 crores under the **Duty Exemption Entitlement Scheme** during the year 1976-77, 1977-78, 1978-79 and 1979-80, respectively, the value of goods exported amounted to Rs. 1.16 crores, Rs. 4.52 crores, Rs. 13.28 crores and Rs. 62.07 crores respectively during the corresponding years. The **Customs duty foregone** amounted to Rs. 1.19 crores, Rs. 1.18 crores, Rs. 5.40 crores and Rs. 45.93 crores respectively during the said years. It was also observed by the Committee that in **Calcutta Custom House**, as against goods valuing Rs. 9.54 crores imported under the scheme during the period 1976-77 to 1979-80, the value of goods exported amounted to Rs. 8.04 crores only and the amount of duty foregone Rs. 4.82 crores. The Committee's detailed examination of certain specific cases of irregularities had revealed several shortcomings in the operation of the **Duty Exemption Entitlement Scheme**.

1.6 Some of the more glaring shortcomings found by the Committee in the operation of the scheme were as follows:

- (i) Absence of proper system of records both at the Ministries of Finance and Commerce;
- (ii) Issue of advance licences without proper verification of the capacity of the importer to manufacture/export;
- (iii) Grant of extensions for fulfilment of export obligation in a rather indiscriminate manner by the Office of the Chief

Controller of Imports and Exports and failure to inform the Customs authorities of such extensions;

- (iv) Substitution of imported materials in exported products and similar other malpractices;
- (v) Failure to impose penalties on offenders and defaulters; and
- (vi) Lack of proper coordination between the Ministries of Commerce and Finance.

1.7 Most of the above listed defects in the Duty Exemption Entitlement Scheme were brought before the Committee by the Ministry of Finance (Deptt. of Revenue) themselves. In fact, the Ministry of Finance had in a note to the Committee expressed their views as under:

"Items where the duty incidence is very high or where there is high premium on the material in the market could perhaps be deleted from the Scheme. Some such items are polyester fibre, polyester Nylon filament yarn, zip fasteners, stainless steel sheets, costly chemicals, etc".

(Para 1.23 of the Report)

1.8 The Committee in Paragraph 1.113 of the Report had summed up:

"The foregoing paragraphs clearly bring out glaring shortcomings in the operation of the Duty Exemption Entitlement Scheme. The fact that the Ministry of Finance have listed out various defects in the Scheme would seem to suggest that they had not taken up the matter earlier with the Ministry of Commerce for the removal of these defects. This is yet another instance of absence of proper co-ordination between the two Ministries. The Committee are of the considered view that the dual responsibility without co-ordination has considerably weakened proper monitoring of the Scheme and has resulted in mounting export defaults and variety of malpractices. During evidence, the representatives of the Ministry of Finance admitted that the existing system of monitoring the scheme was deficient and needed to be improved. The Chief Controller of Imports and Exports has also admitted that there was a lack of timely follow-up action in cases of default. The Committee recommend that Government should undertake a comprehensive review of the Scheme after collecting complete data from the field formations

so as to identify the various loopholes and deficiencies in the working of the Scheme and initiate necessary corrective measures. This is absolutely necessary to ensure that the Scheme fully subserves its purpose. The Committee would expect Government to look into the specific deficiencies highlighted in earlier paragraphs while reviewing the operation of the Scheme. They would like to be apprised of the conclusive action taken in this regard”.

1.9. In an interim action taken note furnished to the Committee, the Ministry of Commerce (Office of the CCI and E) stated as follows:

“A high level meet between the Ministry of Finance and the Ministry of Commerce has been held in which relevant points were reviewed. It has been decided in that meeting that an independent assessment of the operation of the Scheme may be got done. Without waiting for the results of that assessment, however, based on our experience as well as on mutual discussions, a number of steps have already been taken as indicated in the preceding paragraphs”.

1.10 The steps referred to above included monitoring of the entire Scheme by the Ministry of Commerce, computerisation, quarterly review of the Scheme by the Ministry of Commerce and streamlining of the administrative procedures.

1.11 When asked to indicate the latest position about the independent assessment of the operation of the scheme, the Ministry of Commerce (Office of the CCI and E) in a note furnished to the Committee on 3 March, 1986 stated:

“A comprehensive review of the Duty Exemption Scheme has been entrusted to the Indian Institute of Foreign Trade, New Delhi”.

Misuse of Duty Exemption Entitlement Scheme

(S. No. 12, Paragraph 1.109)

1.12 Commenting on certain specific cases of irregularities, the Committee in paragraphs 1.106 and 1.107 of the Report had observed:

Para No. 1.106: The Committee find from the Audit paragraph that an importer imported stainless steel under Duty Exemption Scheme and defaulted in fulfilling the export obligation. On forfeiture of the bonds, the duty was

recovered from the importer. However, the party earned a windfall profit amounting to Rs. 29.76 lakhs due to the wide margin on Stainless steel between the ruling market price and the landed cost. The Committee are concerned to note that no severe penal action was taken against the importer either by the CCI & E or the customs authorities. The Ministry of Finance have contended that since the bond was executed by the Office of the CCI & E and the post-importation violations were to be looked into by that office, the Customs department would not be able to take any penal action in the case. However, the "JCCIE Bombay is taking action for blacklisting the importer". The Committee do not consider this adequate. They need hardly point out that the facility regarding permission to import duty free raw materials under the Scheme which command considerable premium in the indigenous market will be increasingly misused by unscrupulous elements unless exemplary punishment is awarded in such cases. The Committee trust that, with a view to curbing such a tendency, the authorities concerned will see to it that exemplary penal action is taken, in all such cases of defaults including action against officials, if any, who may have been found to have connived.

Para No. 1.107: What has shocked the Committee is that while there are ample penal provisions envisaged both under the Customs Act and the Imports and Exports (Control) Act to deal sternly with defaults, the authorities, strangely have not been taking recourse to such provisions. The Audit paragraph has reported that in 36 cases in Bombay as against imports valuing Rs. 3.71 crores on which the amount of duty forgone was Rs. 2.23 crores, the value of exports that had taken place amounted to just Rs. 48.20 lakhs. In 21 out of the 36 cases no export at all had taken place. The foreign exchange outgo in these cases was Rs. 2.98 crores (c.i.f. value of the imports) and the duty forgone Rs. 1.68 crores. From the details furnished by the Ministry of Finance, the Committee observe that in eight of the 21 cases, customs duty has since been recovered but in reply to a question of the Committee, the Ministry of Commerce have admitted that no penalty was imposed at all in any of these eight cases. It is pertinent to point out that the items imported in these cases were DMT, Stainless Steel, Copper, Zinc, Brass etc. which have a high market premium over landed cost. The Committee

are constrained to observe that by not imposing penalty in such cases, the authorities have allowed the parties to resort to unscrupulous practices under the guise of export promotion. During evidence, the CCI & E admitted that there was a lack of timely follow-up action in cases of default. He, however, stated in extenuation that the CCI & E did not have an elaborate enforcement machinery as the Excise and Customs Department has. The Committee desire that Government should look into the matter and take all necessary measures to ensure prompt penal action to guard against any misuse of this facility".

1.13 In Paragraph 1.109 of the Report, the Committee had further recommended:

"The Committee further recommend that Government should consider the feasibility of omitting such items from the purview of the Duty Exemption Scheme where the duty incidence is very high or where there is a high market premium on the materials so as to minimise the chances of the abuse of the scheme. Alternatively at least levy of a minimum penalty equal to the premium in the Indian market may be made obligatory".

1.14 The Ministry of Commerce (Office of the CCI and E) in their action taken note on the recommendation in paragraph 1.109 have stated:

"If items having a high rate of import duty are excluded from the purview of the scheme, one of the main purposes of the scheme would be defeated as in that case the exporters will have to first invest funds and then claim duty drawback. Therefore, the Government are of the view that items carrying high rates of import duty should not be excluded from the Scheme. However, the Advance Licensing Committee has identified some sensitive items where the temptation of misuse may be there and for such items either value limits have been fixed or imports allowed in instalments, and in addition normally some bank guarantee is insisted upon irrespective of the category of exporter".

1.15 The action taken note furnished by the Ministry of Finance (Department of Revenue) on the same recommendation reads as under:

"The issue was considered by the Government but it was decided that in the interest of export promotion it is not feasible to omit the items, where duty incidence is very high or where there is high market premium, from the purview of the duty exemption scheme. However, to have a better control it has been decided to restrict import of such high premium items and export of materials containing these through major customs ports|airports|ICDs where better expertise is available to detect any fraud. Whenever fraud is noticed, suitable penal action will be initiated by the customs authorities or by CCI & E as the case may be".

1.16 In this connection, attention of the Committee has been drawn to a case of admitted fraud involving duty of more than Rs. 2 crores on import of polyester fibre under the Duty-Exemption Entitlement Scheme in Paragraph 1.27 of the Report of the C & AG of India for the year 1983-84, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes.

1.17 To sum up, the Committee in their 230th Report, had pointed out various defects in the operation of the Duty Exemption Entitlement Scheme. Some of the more glaring shortcomings were, absence of proper system of records both at the Offices of the Chief Controller of Imports and Exports (CCIE) and the Customs Houses, issue of advance licences without proper verification of the capacity of the importer to manufacture|export, grant of extension for fulfilment of export obligations in a rather indiscriminate manner by the CCIE, substitution of imported materials in exported products and other malpractices, failure of the authorities to impose penalties for offences and defaults, and above all lack of proper co-ordination between the Ministries of Commerce and Finance. The Committee had recommended that Government should undertake a comprehensive review of the Scheme after collecting complete data from the field formations so as to identify the loopholes and deficiencies in the working of the Scheme and initiate necessary corrective measures. The Ministry of Commerce have in their action taken reply stated that a high level meeting between the Ministries of Finance and Commerce was held in which the relevant points were discussed and in pursuance of the recommendation of the Committee, a comprehensive review of the Duty Exemption Entitlement Scheme has been

entrusted to the Indian Institute of Foreign Trade. The Ministry of Commerce have further stated that, without waiting for the results of that assessment, a number of steps have been taken based on the experience as well as mutual discussions. These measures include monitoring of the entire Scheme by the Ministry of Commerce, Computerisation, quarterly review of the Scheme by the Ministry of Commerce and streamlining of the administrative procedures. The Committee desire that the comprehensive review be completed expeditiously and necessary follow-up measures taken thereon promptly with a view to ensuring that the Duty Exemption Entitlement Scheme fully sub-serves its purpose and is not allowed to be abused by the unscrupulous elements.

1.18 In their earlier Report, the Committee had commented upon certain cases involving misappropriation of materials imported under the Duty Exemption Entitlement Scheme and the admitted failure of the authorities to impose severe penalties on such offenders. Emphasising the need to check recurrence of such abuses of the Scheme, the Committee had recommended that Government should consider the feasibility of omitting such items from the purview of the Scheme where the duty incidence was very high or where there was a high premium on the imported materials in the indigenous market. Alternatively, at least levy of a minimum penalty equal to the premiums on such products in the Indian market may be made obligatory. In their action taken replies both the Ministries of Commerce and Finance have maintained that in the interest of export promotion it was not feasible to omit such items from the purview of the Scheme. The Ministries have not offered any convincing explanation for not accepting the recommendation of the Committee. The action taken notes are also silent on the Committee's alternative suggestion for levy of minimum penalty in such cases equal to the premium on the product in the Indian market. What has surprised the Committee is that the stand now taken by the Ministry of Finance on the issue is contradictory to what the Ministry had stated earlier. Earlier in a note furnished to the Committee on the defects of the Scheme, the Ministry of Finance had themselves not only suggested that "items where the duty incidence was very high or where there was high premium on the materials in the market could perhaps be deleted from the Scheme", but also had identified such items as "polyester fibre, polyester nylon, filament yarn, zip fasteners, stainless steel sheets, costly chemicals etc." The Ministry have not offered any explanation for this change in their views on the issue. In this connection, the Committee's attention has been drawn to para 1.27 of

the Report of the C&AG, indirect Taxes for the year 1983-84, wherein Audit have pointed out a case of admitted fraud involving duty of more than Rs. 2 crores on import of polyster fibre under the Duty Exemption Entitlement Scheme. This further reinforces the Committee's apprehensions about the possible misuses of the Scheme. Evidently, the Government in both these Ministries is influenced by the possible loss of exports if the Committee's recommendations were accepted. Presumably, this loss has been estimated and found to be sufficiently large to justify condonation of obvious malpractices. The Committee would be glad if details in this regard are furnished to them and would suggest that the Government should re-examine the whole question from this point of view.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

Duty Exemption Entitlement Scheme was introduced in 1976 as an export promotion measure. Under this Scheme, raw materials and components imported under advance licences for execution of export orders are exemption from levy of customs duty. Responsibility for ensuring discharge of export obligation by an importer is entrusted to the office of the Chief Controller of Imports & Exports. The importer executes bonds for payments of duty on the imported items in the event of failure to discharge the export obligation. The Customs authorities act as agents of licensing authorities and make endorsements in the Duty Exemption Entitlement Certificates (DEEC) issued by the licensing authorities when exports are effected. The bonds are cancelled by the licensing authorities on the discharge of export obligation by the importer.

[S. No. 1—Appendix para 1.98 of 230th report of the PAC (7th Lok Sabha).]

Action Taken by Ministry of Commerce

The position stated in this paragraph is a factual one and no action is, therefore, called for on this para.

[Ministry of Commerce (Office of the Chief Controller of Imports and Exports) E.P. II Section U.O. No. 14/6/85/EP.II/4842 dated 13 August, 1985]

[S. No. 1 of the Appendix para 1.98 of the 230 Report of PAC (Seventh Lok Sabha)].

Action Taken by Ministry of Finance

This recommendation states the procedure and the methodology adopted for executing advance licensing scheme. No further action therefore, is called for.

[Ministry of Finance Department of Revenue, O.M. No. 604/8/84-DBK dated 19 September, 1985]

Recommendation

Audit has brought out details of imports and exports made under the Duty Exemption Entitlement Scheme through Bombay and Calcutta Customs Houses during the years 1976-77 to 1979-80. In Bombay Custom House, as against imports of goods valuing Rs. 1.98 crores, Rs. 1.22 crores, Rs. 4.4 crores and Rs. 50.71 crores, under the Scheme during the years 1976-77, 1977-78, 1978-79, and 1979-80 respectively, the value of goods exported amounted to Rs. 1.16 crores Rs. 4.52 crores, Rs. 13.28 crores and Rs. 62.07 crores during the corresponding years. The Customs duty forgone amounted to Rs. 1.19 crores, Rs. 1.18 crores, Rs. 5.40 crores and Rs. 45.93 crores respectively during the said years. According to Audit, in Calcutta Custom House, as against goods valuing Rs. 9.54 crores during the period 1976-77 to 1979-80 imported under the Scheme, the value of goods exported amounted to Rs. 8.04 crores only and the amount of duty forgone Rs. 4.82 crores. Audit has brought certain specific cases of irregularities in the operation of the Scheme. A detailed examination of these cases by the Committee has revealed several glaring short-comings in the operation of the Scheme. These are dealt with in the succeeding paragraphs.

[Sl. No. 2—Appendix—para 1.99 of 230th report of the PAC
(7th Lok Sabha)]

Action Taken by Ministry of Commerce

The facts stated in this paragraph are those taken from the report of Audit. Position in respect of the action taken on the shortcomings pointed out in this paragraph have been indicated in the "action taken by Ministry|Department" given for paragraphs 1.100 to 1.114.

[Ministry of Commerce (Office of the CCIE) E-II Section V.O.No.
14/6/85/E.P. II/4842 dated 13 August, 1985]

Action Taken by Ministry of Finance

This recommendation states the irregularities pointed out by the Audit. These have been adequately dealt with in our replies sent to the Audit and therefore, no further action is called for.

[Ministry of Finance (Department of Revenue) O.M. No.
604/8/84-DBK dated 19 September, 1985]

Recommendation

The Committee are surprised to note that even after a period of about eight years since the introduction of the Scheme, a satisfactory system of maintenance of the records in respect of imports and exports made under the Scheme has not been developed. In reply to queries of the Committee, neither the Ministry of Finance nor the Ministry of Commerce were able to furnish consolidated figures indicating the precise position of the performance of the Scheme at all India level. The Ministry of Finance have furnished information received from only some of the Customs Houses without compiling and consolidating all India figures of the imports, exports and duty forgone on imports against which exports have not taken place. The details made available to the Committee even in respect of these Customs Houses were mostly incomplete, admittedly, due to the absence of proper records in the Customs Houses concerned. The Ministry of Commerce have also not been able to furnish to the Committee detailed and complete figures. During evidence, the Chief Controller of Imports and Exports disputed the correctness of the figures furnished by the Customs Houses. However, the figures subsequently furnished by the licensing offices of the CCI and E were also incomplete. In respect of the Office of the JCCI & E, Bombay, who alone issued 40 per cent of the advance licences, the Ministry of Commerce have merely reproduced the figures as per the records of Customs House, Bombay, which the CCI & E himself had disputed during evidence. This shows that there is hardly any systematic way of maintaining records in the Office of the CCI & E as well.

[Sl. No. 3—Appendix—Para 1.100 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by Ministry of Commerce

A master register is now being maintained by the major regional licensing offices of this Organisation (CCI & E) indicating the detailed position with regard to each advance licence issued by that office, including the progress of the fulfilment of the export obligation and subsequent action if any. To further streamline and centralise the information relating to Advance Licences a Computer Monitoring Cell has been set up in the office of the CCI & E, New Delhi with the installation of a Microprocessor system which has become functional from April, 1985. For utilisation in this system a format has been designed which includes all relevant details of each advance licence issued by the concerned port licensing office and progress of the fulfilment of the export obligation, imports,

subsequent penal|other action if any taken etc. A copy of this format is enclosed for perusal. This format is now being utilised by each port offices for monitoring the progress of each advance licence issued by them. A copy of the consolidated quarterly report based on the information in these formats will also be sent to the Department of Revenue (CBEC) for necessary action at their end.

The divergence in the figures and statistics furnished by the Customs Houses and Licensing offices of this organisation are basically as a result of the fact that:—

- (a) The Customs Houses furnish figures on the basis of the DEEC Books that are registered with them, whereas the regional licensing offices of the CCI & E organisation maintain and furnish information on the basis of advance licence (DEEC) that are issued by them. The advance licence-holder under the DEEC Scheme has the option to get his DEEC Book registered with any Customs House of his choice. As such all the DEECs registered in a particular Custom House need not necessarily relate to one regional licensing office, but would be an amalgam of the DEECs issued by a number of the Regional Licensing Offices.
- (b) It is understood that the Customs Authorities consider the Export obligation imposed against advance licence to have been discharged only after the relevant documents submitted by the licensee to them have been audited by their Department and only then is Part I of the DEEC Book drawn up and the DEEC considered as discharged. On the other hand the Regional Licensing Offices of this organisation which issue the advance licences, consider the Export Obligation discharged at the time the bond/ Legal agreement is redeemed|discharged on the basis of the no objection certificate received from the Custom House is in Part I of the DEEC Book. However, the Licensing Authority usually does not initiate action for declaring the licensee a defaulter even after expiry of the export obligation period but before the redemption| discharge of the legal agreement, if on the basis of the relevent documents furnished by the licensee, the licensing authority is satisfied that the required exports have been made within time i.e., within the export obligation period allowed.
- (c) The Export obligation period may have been extended by the competent licensing authority but the Customs

House where the DEEC Book is registered may not have got the information of the above extension in time and as such cases as per Custom House record this case would be indicated as one of default whereas the licensing office on the other hand would, however not consider this as a case of default. The reports of the two offices can therefore, be divergent. It is basically for the aforesaid three reasons that the divergence in the statistics maintained by the Custom Houses and the regional licensing offices arises. This can be resolved in so far as the first issue of maintenance of records is concerned, if the Custom Houses start maintaining their information/statistics for advance licences registered with them on the basis of the licensing authority concerned who issued the licence. As regards the issue relating to the fulfilment of export obligation as in (b) above this basically relates to information as at a point of time and the Ministry of Commerce is of the view that in case the export obligation is shown to have been fulfilled by the relevant documents, but the customs/ITC authorities take time in completing the formalities for finalisation of the case, it would not be fair to initiate action for default against the concerned advance licence-holder. Regarding (c) above orders have already been issued vide ALC Circular No. 2/83 dated-3-10-1983 that a copy of the Export Obligation extension order be invariably endorsed to the Custom House concerned where the DEEC has been registered (copy enclosed). Further, with the introduction of the system of Centralised computerised monitoring of the progress of each advance licence issued under the DEEC Scheme and a decision to send a copy of the quarterly monitoring report to the Deptt. of Revenue (CBEC), it is expected that such problems should not arise in the future.

No. 10|81|83-EPC
 GOVERNMENT OF INDIA
 MINISTRY OF COMMERCE

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS AND
 EXPORTS UDYOG BHAWAN NEW DELHI 110 011

ALC CIRCULAR No. 2|83

Dated the 3rd October, 83

To

1. All Collectorates of Customs
2. All Licensing Authorities (by name)

SUB: *Extension in the period of Export Obligation—Intimation regarding.*

Sir,

It has been decided that whenever the period of export obligation is extended in respect of any Advance Licence, an intimation thereof should be given immediately to the Custom House where the Duty Exemption Entitlement Certificate is registered. This should be done irrespective of the fact whether the extension is being given by the regional licensing office under its own powers or on instructions from Headquarters.

2. Receipt of the circular may be acknowledged.

Yours faithfully,

Sd|-

(M. E. THOMAS)

EXPORT COMMISSIONER.

Copy to :

1. Director (DBK) Dept. of Revenue, Ministry of Finance.
2. PS to CC|PS to ACC|PS to JS & LA|PS to EC|OSD(CA)|All JCs|ALL DCs|EP Cell|EP I/EP II/CA Section/O & M Branch/ECA Dvn| Cell.

Sd/- M. E. THOMAS
 EXPORT COMMISSIONER

PROFORMA IN RESPECT OF MONITORING EXPORT OBLIGATION ON ADVANCE LICENCES

PART I

Reference No. for Port

Port Year Sl. No.

Name/Address of Regd. Exporters	Sl. No.	R.B.I. Code	Importer Code	Merchant Exporter	Manufacturer Exporter	Entrepreneur merchant-Exporter	R.C.M.C. No. & date
				(a)	(b)	(c)	6
1	2	3	4	5			
	•			K	L	E	Nr. Date

• Col. 2 will not be filled up by Port Offices

Export House (a)	Trading House (b)	Industry (Sector)			Industry Unit				Port office where DEEC Registered (Put Code for Port)
		Private (a)	Public (b)	Others (c)	SSI (a)	DGTD (b)	M RTP (c)	Others (d)	
7		8			9				10
W	B	P	I	O	S	D	M	X	

Put () in the Box if applicable.

Application against		SCHEME			Date of application			Licence No.
Specific Order (a)	Export Prod. programme (b)	Regular (a)	Intermediate (b)	SILC (c)	Day (a)	Month (b)	Year (c)	
11		12			13			14
SC	EP	RE	IN	ST				

Date of Issue of Licence			Value of Licence (c.i.f.) Rs.	Export obligation Value F.O.B. Rs.	Export obligation Quantity*	Value addition (%)
Day (a)	Month (b)	Year (c)				
15			16	17	18	19

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Additional condition Imposed	Whether—		If Bank Guarantee—			Custom Duty Payable Rs.	Port Office File No.	CCI & E Office File No.
	Bank Guarantee (a)	Legal Agreement (b)	Amount Rs. (a)	Date of execution (b)	Terminal Date (c)			
20		21			22	23	24	25
			DAY	MONTH	YEAR	DAY	MONTH	YEAR
	BG	LA						

PROFORMA IN RESPECT OF MONITORING EXPORT OBLIGATION FOR ADVANCE LICENCES

PART-II

Ref. No. from Part

Port Year Sl. No.

Name and address of Registered Exporters	Licence No.	Date of Issue of Licence			Details of items of import effected					
		Day	Month	Year	Item Name	Code acc. to ITGR 2	Qty. Unit Code (i.e. tonne Kg.)	Total Qty.	C.I.F. value Rs.	Date of Import
		(a)	(b)	(c)	(a)	(b)	(c)	(d)	(e)	(f)

1

2

3

4

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Day	Month	Year

Details of Exports made						Terminal date of export obligation—% of export obligation fulfilled.		Extended terminal date of export obligation			
Item Name	Code acc. to ITGR-2	Qty. Code	Total Qty.	F.O.B. Value Rs.	Date export	(a)	(b)	Day	Month	Year	Authority
(a)	(b)	(c)	(d)	(e)	(f)	(a)	(b)	(a)			(b)
5						6		7			
											ALC
			Day	Month	Year	Day		Year	%		

Note : For quantity code mention as follows :

PK for Packs

T for Tonne

L for Litre

PR for Pairs

DZ for Dozen

NOS for Spools

MT for Metric Tonne

CUM for Cubic Metre

SQM for Square Metre

ST for Sets

KG for Kilogramme

G for Grammes

M for Metre

Final terminal date of Export Obligation	Total period (in months only) of Export obligation allowed and authority		Date of issue of caution letter	Percentage of Export Obligation fulfilled	Date of redemption by port office
	PORT	CCI&E			
8	(a)	9 (b)	10	11	12

Day	Month	Year

Day	Month	Year

Day	Month	Year

Percentage of Default	Date of declaring defaulter	Bank Guarantee amount/ liquidated damages paid Rs.	Customs Duty Paid		REP Licences surrendered Value Rs.
			Yes—No (a)	Amount Rs. (b)	
(a)	(b)				
	13	14		15	16

%

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Day	Month	Year

Yes	No
Code I	Code O

No.	Value

Miscellaneous Details of goods handed over to STC/Nominated agency	Other types of penal action taken				Civil suit filed
	Debarred	Fine/Penalty Rs.	CBI Prosecution	Others	
Name of Item (a)	Name of Agency (b)	Value Rs. (c)			
	(a)	(b)	(c)	(d)	
17	18			19	

DEB

FIN

PEN

CBI

XXX

YES	NO
Code	Code
1	0

Put () Where applicable.

Action Taken by the Ministry of Finance

The customs authorities act as agent of licensing authority and make suitable endorsement in the duty exemption entitlement certificates issued by the licensing authorities at the time of import of the raw materials and again at the time of export of the end product.

As there is bound to be a time lag between the time license and DEEC are issued by the licensing authorities and the physical importation of the raw materials and since the import of raw materials and the export of the end product can be at different customs ports, at a given point of time the figures of the Customs authorities and the licensing authorities may not tally.

It has been decided that Ministry of Commerce would monitor the entire scheme and would prepare a quarterly statement, which would be circulated to the customs department so that the figures can be up dated and discrepancies if any can be investigated and rectified and proper action taken where necessary. There is also a proposal with the Ministry of Commerce for computerising the monitoring process.

[Ministry of Finance Department of Revenue O.M. No. 604/81
84-DBK dated 19 September, 1985]

Recommendation

The figures furnished by the Ministry of Finance in respect of the major Customs Houses and by the Ministry of Commerce in respect of the various licensing offices showed wide differences. According to Ministry of Finance, the total value of imports made under the Scheme upto 31 March, 1983 in the five major Customs Houses viz. Bombay, Calcutta, Madras, Cochin and Delhi amounted to Rs. 411 crores and the total amount of duty forgone stood at Rs. 342 crores. But the figures of total imports and duty foregone as per the figures furnished by the CCI and E to the Committee were Rs. 684 crores and Rs. 548 crores respectively. Discrepancies exist even in respect of such basic and elementary information as the total number of licences issued and registered under the Scheme. During evidence, the Chief Controller of Imports and Exports as well as the Chairman, Central Board of Excise Customs admitted that all India figures of the licences issued, the imports and exports made and the export obligation fulfilled as per the records of both the Customs Houses and the Offices of the CCI and E should have tallied. Evidently, no joint efforts have been made so far by the Ministries of Finance and Commerce to reconcile the figures so as

to give a correct position of fulfilment of export obligation under the Scheme. The representatives of the Ministry of Finance admitted during evidence that the present system of maintaining records is deficient. As conceded by the Secretary, Department of Revenue, "at any given point of time, the complete information may not be available with anybody." The committee cannot but express their concern over this unsatisfactory state of affairs. They wonder how the authorities can ensure an effective administration of this export promotion measure in the absence of proper co-ordination between the two Ministries concerned. The Committee recommend that Government should take immediate measures to introduce a proper system of records both in the Customs Houses and the Offices of the CCI and E in respect of the Duty Exemption Scheme. Government should also evolve a suitable mechanism involving the representatives of both the Ministries of Finance and Commerce for overseeing the administration of the Scheme including periodical reconciliation of records. The Committee would like to be informed of the conclusive action taken in the matter.

[Sl. No. 4—Appendix—Para 1.101 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by Ministry of Commerce

The reasons for the divergence in the statistics as are maintained by the Custom Houses and the offices of this organisation has been explained in reply to para 1.100 above as well as the steps to ensure a comprehensive monitoring system. Though there is a divergence in the records maintained, it may be mentioned that in practice there is full cooperation and coordination between the offices of the CCI & E and the Deptt. of Revenue (CBEG) at various ports, not only in matters relating to advance licences issued under the DEEC Scheme but in all matters relating to import and export. All decisions relating to the issue of licences under the Duty Exemption Scheme, amendments thereof, extension of export obligation, extension in the validity of the licence or for that matter any general decision on any policy matter relating to advance licence under the DEEC are now discussed and finalised in the Advance Licensing Committee in this office. This is an Inter-Ministerial Committee which includes senior representatives of the Dep. of Revenue (CBEC) as (well as the Directorate of Drawback, apart from the representatives of the technical departments, (DGTD and SSI). Regional Advance Licensing Committees are also to be set up in Delhi, Calcutta,

Madras and Bombay with a similar composition. This will ensure prompt coordination and reconciliations at the regional levels as well.

[Ministry of Commerce (Office of the CCIE) E.P II Section
UO No. D|14|6|85|EP II|885 dated 30 June, 1985]

Action Taken by Ministry of Finance

Ministry of Commerce will be monitoring the entire scheme and aid of the computer will be taken for effective control. Also they will be reviewing the Scheme every quarter. This arrangement should afford a greater control on the operation of the Scheme.

[Ministry of Finance (Department of Revenue) O.M. No.
604|8|84-DBK dated 19 September, 1985]

Recommendation

The Committee note that imports are made under the Scheme by manufacturers on the basis of licences issued by the Advance Licensing Committee, for executing specific export orders or production of export goods in a phased manner. During examination the Ministry of Finance stated that there does not appear to be any system of verification whether the applicant for an advance licence had the capacity to manufacture/export. The Ministry of Commerce have, however, sought to refute the contention of the Ministry of Finance by maintaining that there was a prescribed procedure for this. From the information furnished by the Ministry of Commerce, the Committee find that the value of export obligation yet to be fulfilled as on 31 March, 1983 in all amounted to about Rs. 10 crores even after excluding the figures of JCCI and E Bombay. The major licensing office which issued licences to the extent of nearly 40 per cent of total licences issued under the Scheme. In reply to a specific question of the Committee the Chief Controller of Imports and Exports stated that no analysis had been made at the macro level to find out the reasons for the non-fulfilment of export obligation to such a large extent. The Committee are surprised to learn this. Keeping in view the mounting export defaults, the Committee desire that the Ministry of Commerce should undertake such an analysis without delay and take necessary corrective measures including incorporation of necessary modifications in the scheme with a view to ensuring fulfilment of export obligation by licensees.

[Sl. No. 5—Appendix—Para 1.102 of 230th Report of the
PAC (7th Lok Sabha).]

Action Taken by Ministry of Commerce

System of regular monitoring has since been introduced under which the particulars of each licence issued under the Duty Exemption Scheme can be ascertained/assessed at periodic intervals, as has been mentioned in para 1.100 above. The following further steps have been taken to streamline the working of the Advance Licensing Scheme during the last two years:—

- (i) All applications for an advance licence under a production programme (i.e., not backed by an export order) are to be dealt with only by the Advance Licensing Committees.
- (ii) The c.i.f. value of zip fastners and snap fastners is not to exceed 6 per cent and $\frac{1}{2}$ percent of the c.o.b. value of Advance licence, respectively.
- (iii) Details of technical specifications of the silk yarn and raw wool imported under advance licences are to be specifically mentioned, in the description of the export obligation.
- (iv) A bank guarantee is taken for all items that have been listed out, on which there is a high premium, irrespective of status of advance licence holder.
- (v) A bank guarantee is invariably taken from all new comers i.e., those registered exporters who have not exported continuously during the preceding 3 years.
- (vi) Advance licences are to be given in two or more instalments in cases where c.i.f. value is in excess of the annual average exports of the last 3 years of the exporter. The second and subsequent instalments are given only after the export obligation of upto 75 per cent has been fulfilled against the earlier instalment.
- (vii) Applications for an advance licence by any new comer for a c.i.f. value in excess of Rs. 5 lakhs was to be considered by the Headquarters Advance Licensing Committee.
- (viii) A minimum value addition has been fixed for certain items such as stainless steel, synthetic and silk fibre and yarn, G.P. Sheets, ivory and cassettes. This value addition is much higher than the minimum value addition, which has now been increased to 33 per cent in the current policy.

- (ix) Extension of export obligation after the expiry of the initial period can be done only by the Advance Licensing Committees.
- (x) Applications for advance licence under the Intermediate Scheme can be considered by the Advance Licensing Committee only if tie-up is given with the exporter of the end-product.
- (xi) A copy of the Order of extension of export obligation period is to be endorsed to the concerned Customs office.
- (xii) A cautionary letter is to be issued to the firm 30 days before the export obligation period is to expire.
- (xiii) If the duty and interest due from a firm are not paid within one month from the order demanding the same, penal action is to be initiated.
- (xiv) Export and Import of certain items carrying a high premium have been restricted to certain major ports.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D-14/6/85/EP II/885 dated 30 June 1985].

Action Taken by the Ministry of Finance

This recommendation pertains to the Ministry of Commerce which is being requested to submit action taken note separately.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/8/84-DBK dated 19 September, 1985]

Recommendation

The Committee find that the advance licence is issued with the condition to fulfil export obligation within a period of six months from the date of clearance of first consignment under the advance licence. If the party is unable to complete the obligation during this period, there is a provision for extension. Extension for not more than six months can be granted by the licensing authorities in case of exporters who have been regularly exporting for at least three years without default. The requests in other cases are either examined and decided by the Export Commissioner or are placed before the Export Commissioner or are placed before the Advance Licensing Committee for consideration. During evidence, the CCI&E stated that there might be "very rare cases" where validity might exceed 13 months. However, from the details furnished

by Ministry of Commerce in respect of certain licensing offices. The Committee find that there were several cases where extensions were in fact given for more than 18 months. The details of export defaulters furnished to the Committee in respect of Calcutta Custom House who had imported materials worth more than Rs. 10 lakhs and above each indicated that in as many as 26 cases exports had taken place long after 18 months. The position in respect of other Custom Houses is not known as they have not furnished the requisite information. Another regrettable feature pointed out by the Ministry of Finance during evidence was that extension by six months appeared to be granted by the licensing authorities in a routine manner without verifying whether the material was still in the possession of exporters or not. Surprisingly no intimation of this extension is sent to the Customs who are required to raise a demand if the export obligation is not discharged within a period shown in the DEEC. The Committee cannot but express their dissatisfaction at the routine manner in which the licensing authorities appear to be granting extensions even without informing the customs authorities of such extensions. They desire that the Ministry of Commerce should look into the matter and advise the licensing authorities to grant extensions in a more judicious manner so that these are given only when justified. Steps should also be taken to ensure that all extensions are invariably communicated to the Customs authorities.

[Sl. No. 6—Appendix—Para 1.103 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by the Ministry of Commerce

Extension in the period of export obligation are now granted in the following manner:—

If the initial period of export obligation is over the first extension of this period can only be done for a period not exceeding 3 months by the Regional Advance Licensing Committee, situated at Bombay, Madras, Calcutta and New Delhi. It has further been prescribed that normally this first extension should be given only in cases where over 50 per cent of the Export Obligation has been fulfilled. In the case of export products cassettes (Audio or Video) no extension of the initial export obligation period can be granted under any circumstances. A second extension of the export obligation period beyond this period can only be given in exceptional cases and for extenuating circumstances by the Advance Licensing Committee in the office of the CCI&E, New Delhi, depending on the merits

of each case. It is expected that these guidelines for the extension of export obligation will help in preventing misuse of this facility. Thus the Customs authorities concerned would not only be involved in the grant of extension of the export obligation (as members of the Regional/ Headquarters Advance Licensing Committees) but are also being kept informed as a copy of the letters by which the export obligations are extended are also endorsed to them (ALC Circular No. 2/83 dated 3-10-1983).

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D/14/6/85/EP II/885 dated 30 June 1985]

Action Taken by the Ministry of Finance

The recommendation pertains to the Ministry of Commerce which is being requested to submit action taken note directly.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/8/84-DBK dated 19 September, 1985]

Recommendation

The Committee note the statement made by the Ministry of Finance before the Committee that the legal under taking which is presently accepted in lieu of bond can be enforced only through a court of law. Customs could not enforce the demand as the joint bond was executed with the licensing authority. However, during evidence, the CCI&E stated that there was a difference of opinion on this point and the legal position was now being examined. The Committee are shocked to find that although the Scheme was introduced as many as eight years back, the legal position on such a vital point is yet to be thrashed out. This is indicative of the casual approach of the authorities concerned. The Committee would like to be informed of the results of the legal examination at an early date.

[Sl. No. 6—Appendix—Para 1.103 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by Ministry of Commerce

The legal undertaking format for ensuring the fulfilment of export obligation as prescribed under Appendix VI-D of the Hand Book of Import-Export Procedures, 1985—88, now includes a clause for realisation of custom duty along with 18 per cent interest thereon (from the date of import to the date on which payment is made)

from the cash assistance available to the firm apart from other action. In all cases where the export obligation is not fulfilled within the initial export obligation period or the extended period, the bond or legal agreement is to be enforced. Legal advice has been obtained by the Deptt. of Revenue on the feasibility of the Custom Department enforcing the provision of Section 142 of the Customs Act 1962 for recovery of customs duty in cases of default. It is learnt that as per this legal advance, on an intimation by this office to the Customs authorities that we had been unable to recover customs duty etc., from the defaulter—the Customs authority would thereafter be entitled to invoke the provisions of Section 142 of the Customs Act 1962 for recovery of custom duty thereunder. This is irrespective of powers that the Customs authorities have for taking action against the advance licence holder at the time of import or export itself for the contravention of any of the provisions of the Customs Act, 1962.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D|14|6|85|EP II|885 dated 30 June, 1985]

Action Taken by the Ministry of Finance

The issue was referred to the Ministry of Law and they opined that the breach of the conditions of the bond, results in invoking the rights given to the licensing authorities under the bond for the recovery of the amounts due. It is the licensing authorities duty to do so in accordance with their laws. Clause 7(d) of the bond stipulated that the customs duties and auxiliary customs duties due under the bond may be recovered, without prejudice to any other mode of recovery, in accordance with the provisions of Sec. 142 of the Customs Act, 1962. The procedure under the said provisions can be invoked by the officers of the Customs who are assigned these functions by the board or the Collector of Customs and that too on an intimation received from the Licensing authorities. The Licensing authorities themselves cannot initiate the recovery proceedings under Sec. 142 of the Customs Act, 1962, as they are not the proper officers within the meaning of the Section.

[Ministry of Finance (Department of Revenue) O.M.
No. 604|8|84-DBK dated 14 September, 1985]

Recommendation

The Committee find from the Audit paragraph that an importer imported stainless steel under Duty Exemption Scheme and defaulted in fulfilling the export obligation. On forfeiture of the bonds,

the duty was recovered from the importer. However, the party earned a windfall profit amounting to Rs. 29.76 lakhs due to the wide margin on Stainless steel between the ruling market price and the landed cost. The Committee are concerned to note that no severe penal action was taken against the importer either by the CCI&E and the post-importation violations were to be looked into by that office, the Customs department would not be able to take any penal action in the case. However, the "JCCIE Bombay is taking action for blacklisting the importer". The Committee do not consider this adequate. They need hardly point out that the facility regarding permission to import duty free raw materials under the Scheme which command considerable premium in the indigenous market will be increasingly misused by unscrupulous elements unless exemplary punishment is awarded in such cases. The Committee trust that, with a view to curbing such a tendency, the authorities concerned will see to it that exemplary penal action is taken in all such cases of defaultes including action against officials, if any, who may have been found to have connived.

[Sl. No. 9—Appendix— Para 1.106 of 230th Report of the PAC (7th Lok Sabha)]

Action Taken by Ministry of Commerce

3. Penal action such as debarment, adjudication and imposition of fine as per Import and Export Control Act 1947 are initiated on the failure of the firm to fulfil their export obligations. Para 29 of Appendix 19 of the current Import-Export Policy, 1985—88 gives clear instructions as to the initiation of penal action against defaulting firms. A copy of this para is enclosed for ready reference.

[Ministry of Commerce (Office of the CCIE) E.P.II Section
U.O. No. D|14|6|85|EP II|885 dated 30 June 1985]

Extract of Para No. 29 of Appendix 19 of the Import and Export Policy for April 1985—March, 1988

Follow-up/Penal Actions

29. (1) Where any bond/legal agreement has not been executed against a licence issued under this Scheme within the validity of the licence, licensing authority concerned will initiate action for calling back the licence for cancellation.

(2) In other cases a cautionary letter about the expiry of the export obligation period will be issued to the exporter one month before the expiry of the export obligation period. Licensing

authorities will also initiate follow-up actions within 30 days from the date of expiry of the export obligation period. If the export have not been completed in fulfilment of the export obligation penal action as provided in the succeeding paras will be initiated.

(3) If a licence holder fails to discharge the prescribed export obligation within the permitted time, either in full or in part, the bond/legal agreement executed by him will be enforced. He shall also be treated to be in default, thereby disentitling him to secure any licences/release orders either under the Scheme or under any other provision of this Policy. In such cases, the registered exporter shall:—

- (i) pay forthwith to the Customs Authority concerned duty on the proportionate quantity of exempt materials imported corresponding to the products not exported and on any excess materials that is left over after utilisation in the manufacture of the resultant products and completion of the corresponding exports; and
- (ii) pay interest at 18 per cent per annum of the total amount of Customs duty and other duties payable from the date of clearance of the imported goods (exempt material) to the date on which the amount due from him is actually paid.

The defaulting licensee will take the above actions within a month from the date of any order issued by the licensing authority concerned.

(4) If the defaulter licensee fails to act according to the provisions in sub-para (3) above, the licensing authority shall recover the amounts and value of such REP licences due from export entitlements due to the defaulting exporter. The Customs authorities shall also take suitable action for recovery of Customs or other duties and interest thereon under section 142 of the Customs Act 1962. These actions shall be without prejudice to any other action that may be taken against the defaulter exporter under the Import & Export (Control) Act, 1947 and the Order issued thereunder.

(5) Any follow-up or penal action initiated by the licensing authorities shall not be discontinued unless these are stayed or set aside by the appellate authorities concerned.

Action Taken by the Ministry of Finance

The Committee's recommendations have been noted for suitable implementation.

[Ministry of Finance (Department of Revenue) O.M. No.
604/8/84-DBK dated 19 September, 1985]

Recommendation

What has shocked the Committee is that while there are ample penal provisions envisaged both under the Customs Act and the Imports and Exports (Control) Act to deal strenuously with defaults, the authorities, strangely have not been taking recourse to such provisions. The Audit paragraph has reported that in 36 cases in Bombay as against imports valuing Rs. 3.71 crores on which the amount of duty forgone was Rs. 2.23 crores, the value of exports that had taken place amounted to just Rs. 48.20 lakhs. In 21 out of the 36 cases no export at all had taken place. The foreign exchange outgo in these cases was Rs. 2.98 crores (cif value of the imports) and the duty foregone Rs. 1.68 crores. From the details furnished by the Ministry of Finance, the Committee observe that in eight of the 21 cases, customs duty has since been recovered but in reply to a question of the Committee, the Ministry of Commerce have admitted that no penalty was imposed at all in any of these eight cases. It is pertinent to point out that the items imported in these cases were DMT, Stainless Steel, Copper, Zinc, Brass etc. which have a high market premium over landed cost. The Committee are constrained to observe that by not imposing penalty in such cases, the authorities have allowed the parties to resort to unscrupulous practices under the guise of export promotion. During evidence, the CCI&E admitted that there was a lack of timely follow-up action in cases of default. He, however, stated in extenuation the CCI&E did not have an elaborate enforcement machinery as the Excise and Customs Department has. The Committee desire that Government should look into the matter and take all necessary measures to ensure prompt penal action to guard against any misuse of this facility.

[Sl. No. 10—Appendix—Para 1.07 of 230th Report of the
PAC (7th Lok Sabha)]

Action Taken by Ministry of Commerce

Penal action such as debarment, adjudication and imposition of fine as per Import and Export Control Act 1947 are initiated on the failure of the firm to fulfil their export obligations. Para 29 of Appendix 19 of the current Import-Export Policy, 1985—88 gives clear instructions as to the initiation of penal action against defaulting firms. A copy of this para is enclosed for ready reference.

[Ministry of Commerce (Office of the CCI&E) E.P.II Section
U.O. No. D/14/6/85/EPII/885 dated 30 June 1985]

Action Taken by the Ministry of Finance

The Committee's recommendations have been noted for suitable implementation.

[Ministry of Finance (Department of Revenue) O.M. No.
604|8|84-DBK dated 19 September, 1985]

Recommendation

The Committee cannot but express their unhappiness at the role of the Customs department on the question of taking penal action. During examination it was admitted that penal action under Sections 111 and 112 of the Customs Act can always be taken against the importer for non fulfilment of the conditions of an exemption notification issued under Section 25. In view of this, the Committee are amazed at the averment of the representative of the Ministry of Finance that although the Customs department had the legal authority to take action if it was referred to them, the Scheme left the initiative with the CCI & E. According to him as the Scheme was an export promotion measure, "We did not think of the rod all the time" The Committee recommend that the Ministry of Finance should issue necessary instructions to ensure that deterrent penalties are promptly imposed wherever warranted in order to protect revenue and guard against the misuse of the Scheme.

[Sl. No. 11—Appendix—Para 1.108 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by the Ministry of Commerce

No comments as these are to be implemented by the Ministry of Finance.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D-14/6/85/EP II/885 dated 30 June 1985].

Action Taken by the Ministry of Finance

The Committee's recommendations have been noted for suitable implementation.

[Ministry of Finance (Department of Revenue) O.M. No.
604|8|84-DBK dated 19 September, 1985]

Recommendation

The Committee have been informed that as per the existing provisions of the Duty exemption Entitlement Scheme, it is not obligatory on the part of the advance licence holder to utilise the same

Imported material in the exported products. The Scheme provides that the material imported under the advance licence can be utilised for the purpose of manufacture of goods or replenishment of the materials used for the manufacture of the goods or both for execution of one or more export orders. The Scheme, however, prohibits appropriation of the duty-free imported materials in a way other than what has been visualised under the Scheme. The Ministry of Finance have stated that 100 per cent checking of the export consignment is not done in order to verify the consumption of duty free imported raw materials. However, in reply to a query of the Committee, the Bombay and Calcutta Customs Houses have reported certain cases of substitution of materials. From the reply of the Madras Customs House that such particulars are not recorded, it is evident that presently no instructions have been issued by the authorities to the field formations in this regard. The Committee desire that Government should thoroughly look into the matter and issue necessary instructions in order to check such misuses

[Sl. No. 13—Appendix—Para 1.110 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by the Ministry of Finance

The Scheme provides that the exports made after the date of receipt of application for issue of an advance licence can be counted towards discharge of export obligation against the licence which may be issued against that application. The provisions of the Customs Notification referred to above as well as the provision of the Scheme make it clear that it is not incumbent on the importer to use the same duty free imported material in the export products made against the same licence. The importer, is, however, not allowed to sell or dispose of the goods. The transfer contemplated in Clause 3 in the same Notification may be necessary in cases where the export order is in the name of Export House|Trading House and they get the goods manufactured through an associate manufacturer as permissible under the policy and the associate manufacturer uses the material already available with him for manufacturing the export product. In such a case the goods imported by the Export House|Trading House may have to be allowed to be transferred to the associate manufacturer to replenish the same.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. F-14/6/85/EP II/885 dated 30 June 1985].

Action Taken by the Ministry of Finance

The materials prove to misuse have been identified and import of such items and exports of materials containing these sensitive items are being restricted to major customs ports|airports|ICDs so that expertise is available to check possible abuse. Further, in respect of export goods containing sensitive materials It has been decided to increase the percentage of examination to 25 per cent—30 per cent and in respect of doubtful cases 100 per cent examination would be resorted to. Suitable instructions in this regard have been issued.

[Ministry of Finance (Department of Revenue) O.M. No. 604|8|84-DBK dated 19 September, 1985]

Recommendations

The Committee note from the Audit Paragraph that an amount of Rs. 4.25 lakhs was incorrectly paid as duty drawback and another amount of Rs. 1.17 lakhs was sanctioned as duty drawback on export of synthetic detergent powder to an exporter who had export obligation under the Duty Exemption Entitlement Scheme. In reply to a query, the Ministry of Finance have stated that similar cases of irregular payments were detected in Bombay and Madras Customs Houses also. The Ministry of Finance have assured the Committee that a proposal to amend the Shipping Bill by introducing a Certificate that the export was made under Duty Exemption Entitlement Scheme etc. was under consideration of the Government so that at a later date no exporter could take shelter by saying that the omission was inadvertent or through oversight. The Committee desire that a decision in the matter should be expedited. They would like to be informed of the conclusive action taken in the matter.

[Sl. No. 14—Appendix—Para 1.111 of 230th Report of the PAC (7th Lok Sabha)].

Action Taken by the Ministry of Commerce

The form of shipping bill under the DEEC scheme is separate from the form of shipping bill where duty draw back is admissible in the normal course. No duty draw back can normally be claimed on the exports made against the DEEC on the shipping bills prescribed for that purpose. It is specifically provided in para 22 of Appendix 19 of Import-Export Policy (Vol. I) for the year 1984-85 that no drawback will be admissible on the products exported under the scheme in respect of any duty exempted material allowed against such exports. However, in respect of any other duty paid material—whether imported or indigenous—used in such

products, a suitable brand rate may be fixed by the Ministry of Finance on request by the Registered Exporter.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D-14/6/85/EP II/885 dated 30 June 1985].

Action Taken by the Ministry of Finance

Instructions have already been issued and the same have been implemented. In terms of these instructions every exporter while claiming drawback is required to give a declaration in the shipping bill that the exports is not in discharge of export obligation under the duty exemption scheme.

[Ministry of Finance (Department of Revenue) O.M. No. 604/
8/84 DBK dated 19 September, 1985]

Recommendation

The Committee find that Section 143A relating to duty deferment was inserted in the Customs Act by an amendment in 1978. According to sub-section (2) (b) of Section 143A the Customs Officer is empowered to charge interest at the rate of 12 per cent on the duty payable on the goods failed to be exported within the time limit. In reply to a question of the Committee whether the provision could not be invoked against export defaults under DEEC, the Ministry of Finance have stated that this amendment was to take effect from a date to be notified, but no such notification has been issued because, with the Duty Exemption Entitlement Scheme becoming increasingly popular, the Scheme of duty deferment has not been introduced. The Committee are surprised to note that the Ministry remained silent in the matter for a period of over six years and have now sent a note to this effect to the Cabinet. The Committee would like Government to consider whether irrespective of the introduction of the Deferment Scheme, the law cannot be suitably amended so as to provide for levy of interest charges in case of delayed exports under the DEEC.

[S.L. No. 15—Appendix—Para No. 1.112 of 230th Report of
the PAC (7th Lok Sabha).]

Action taken by the Ministry of Commerce

There is already a provision in para 21 of Appendix 19 of the Import Policy (Vol. I) 1984-85 for demanding 18 per cent interest for any default in fulfilment of the export obligation. This interest is calculated from the date of import of the material to the date

when payment is actually made. This clause was introduced in 1982-83 policy. This clause has also now been incorporated in the Legal Agreement format. The suggestion that interest should be recovered in all cases of delayed exports may be difficult to implement if the exports are made within the extended time allowed.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D-14/6/85/EP II/885 dated 30 June, 1985].

Action Taken by the Ministry of Finance

In 1977, as an alternative to "Advance Licensing Scheme", "Duty deferment scheme" was thought of, to minimise abuse and shortcomings noticed in the Advance Licensing Scheme. Accordingly, Sec. 143A was introduced in the Customs Act, 1962 in 1978. A provision was also made therein that this would come into effect from a date which was to be notified.

When it was found that Advance Licensing Scheme had picked up and was working to its objective, the alternative scheme of "Duty department" was not pursued.

The Advance Licensing Scheme envisages export obligation in respect of items imported duty free, within 6 months from the date of first importation of the items. The scheme also provides for an extension of this period by the appropriate authority. It also stipulates that where export obligation is not fulfilled with reference to the entire quantity of goods imported or part of the goods, the duty, with an interest of 18 per cent is leviable on such portion of the goods for which the export obligation had not been fulfilled. The interest is chargeable from the date of the clearance of the import of materials to the date of actual payment.

[Ministry of Finance (Department of Revenue) O.M. No.
604/8/84-DBK dated 19 September, 1985]

Recommendation

The foregoing paragraphs clearly bring out glaring shortcomings in the operation of the Duty Exemption Entitlement Scheme. The fact that the Ministry of Finance have listed out various defects in the Scheme would seem to suggest that they had not taken up the matter earlier with the Ministry of Commerce for the removal of these defects. This is yet another instance of absence of proper co-ordination between the two Ministries. The Committee are of the considered view that the dual responsibility without co-ordina-

tion has considerably weakened proper monitoring of the Scheme and has resulted in mounting export defaults and variety of mal-practice. During evidence, the representatives of the Ministry of Finance admitted that the existing system of monitoring the scheme was deficient and needed to be improved. The Chief Controller of Imports and Exports has also admitted that there was a lack of timely follow-up action in cases of default. The Committee recommend that Government should undertake a comprehensive review of the Scheme after collecting complete data from the field formations so as to identify the various loopholes and deficiencies in the working of the Scheme and intimate necessary corrective measures. This is absolutely necessary to ensure that the Scheme fully subserves its purpose. The Committee would expect Government to look into the specific deficiencies highlighted in earlier paragraphs while reviewing the operation of the Scheme. They would like to be apprised of the conclusive action taken in this regard.

[Sl. No. 16—Appendix—Para 1.113 of 230th Report of the PAC
(7th Lok Sabha)]

Action Taken by the Ministry of Commerce

A high level meeting between the Ministry of Finance and the Ministry of Commerce has been held in which relevant points were reviewed. It has been decided in that meeting that an independent assessment of the operation of the Scheme may be got done. Without waiting for the results of that assessment, however, based on our experience as well as on mutual discussions, a number of steps have already been taken as indicated in the preceding paragraphs.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D/14/6/85/EP II/885 dated 30 June, 1985]

Action Taken by the Ministry of Finance

The Ministry of Commerce have been requested to undertake a comprehensive study of the working of the scheme. The report is awaited.

[Ministry of Finance (Department of Revenue) O.M. No.
604/8/84-DBK dated 19 September, 1985]

Further Action taken by the Ministry of Commerce

A comprehensive review of the Duty Exemption Scheme has been entrusted to the Indian Institute of Foreign Trade, New Delhi.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
O.M. No. PF 14/6/85 dated 28 January, 1986]

CHAPTER III

RECOMMENDATIONS AND OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

The Committee note that under the duty Exemption Scheme, before clearance of the first consignment against an advance licence, the licence holder is required to execute an export bond backed by bank Guarantee or a legal undertaking to export the finished goods manufactured out of the duty-free imported raw material within the stipulated time. Till 1979-80, separate bonds were executed for the purpose of customs duty exemption and import control requirements. From 1979-80, the importers are required to execute a combined bond for the purposes. The Committee, however, find from the Audit paragraph that on imports of copper unwrought and zinc by two importers, the export obligation was met only partly and the Customs House issued demands in May 1980 for recovering duty amounting to Rs. 10.46 lakhs. However, the bond executed by the importer was released by the licensing authorities without getting facts verified by the Customs. The Ministry of Finance have stated that as the bonds could be released only after obtaining a non-objection certificate from the Customs department the mistake in the case appears to have happened due to some individual lapse in not following the prescribed procedure and not on account of any defect in the procedure. The Committee have also been informed that the demand raised by the Customs House is under de-novo adjudication. The Committee are not satisfied with this explanation. They would like to be informed if circumstances of the lapse have been investigated and responsibility fixed. In view of the dual control envisaged under the Duty Exemption Scheme and in order to obviate recurrence of such lapses resulting in loss of revenue, the Committee recommend that Government should examine the feasibility of reverting back to the

system of obtaining separate bonds from the exporters in respect of Customs duty and import control requirements. The Committee would also like to be informed of the results of adjudication in the cases under examination.

[Sl. No. 7—Appendix—Para 1.104 of 230th Report of the PAC
(7th Lok Sabha)]

Action taken by the Ministry of Commerce

The case referred to here involves two licences of the same firm the bond|bank guarantee of which were redeemed at that period of time by the licensing authorities erroneously, presumably due to lack of knowledge relating to the procedure to be followed. This was noticed a few years back and immediately corrective action was taken by the same port licensing authorities to cancel the communication relating to redemption earlier issued. It may be stated here that the firm had actually exported the goods but only the shipping documents were not presented. Subsequently, these documents have been produced to the Customs who had cleared and closed the DEECs. The regional licensing authority has also redeemed the bond involved.

In view of the fact that exports had actually been made and the documentation alone was incompletd. The action of the officer cannot be treated as malafide. The concerned officer has also since retired.

The suggestion of the PAC for reversion to the system of separate bonds; one for this organisation and the other for Custom was considered in depth. In view of the earlier experience, when such dual bonds were being taken for the same licence, that the procedure was cumbersome and time consuming, it was decided that as a matter of simplification (with the concurrence of the Deptt. of Revenue) the current procedure of execution of the joint bond covering both the custom duty and the import/export regulations be continued.

[Ministry of Commerce (Office of the CCIE) E.P. II Section
U.O. No. D.14 6.85 EP II 885 dt. 30 June, 1985]

Action Taken by the Ministry of Finance

In this recommendation the AC have raised 3 issues—

- (a) to examine the feasibility of reversing back to the system of obtaining a separate bond from the exporters in respect of customs duty and import control requirements.

- (b) To inform the Committee regarding results of *de novo* adjudication.
- (c) To investigate and fix responsibility for cancellation of bond by the licensing authorities without getting the facts verified from the customs.

As regards (a) this issue was discussed between the two Ministries and it was decided that as a facilitation measure the combined bond could continue with the CCI & E.

As regards (b) it is confirmed that *de novo* proceedings have been completed and the short fall in duty realised.

As regards (c) since the issue relates to the Ministry of Commerce, it will be submitting action taken note separately.

[Ministry of Finance (Department of Revenue) O.M. No. 604/84-DBK dated 19 September, 1985]

Recommendation

The Committee note that apart from Advance licensing, there are presently several other export promotion measures like Cash Assistance, Import Replenishment Scheme, Duty drawback Scheme etc. in operation. The whopping trade deficit of Rs. 5000 to Rs. 6000 crores per year against the background of growing repayment obligations presents a formidable challenge to our economy. There is, undoubtedly, a pronounced need for a dispassionate evaluation of the existing export promotion measures taken in their totality. The Committee are glad to find in this connection that Government have recently appointed a high powered Committee under the Chairmanship of the Commerce Secretary to review the present foreign trade policies and export promotion measures. The Committee, however, find that the said high powered Committee comprise officials only. The Committee would have expected Government to include some professional experts as also representatives of trade and industry in this Committee so as to make its deliberations more purposeful. The Committee desire that Government should examine the desirability of making the composition of the high powered Committee more broad based. They would like to be apprised of the recommendations of the high powered body and action taken thereon, in due course.

[Sl. No. 17—Appendix—Para 1.114 of 230th Report of the PAC (7th Lok Sabha)].

Action Taken by Ministry of Commerce

The Committee under the Chairmanship of the then Commerce Secretary has already submitted its Report to the Government. The report of the Committee has not yet been released. The Committee had a wide range of discussions, both at Delhi as well as at other places in the country, with representatives of trade, industry, economists, journalists, financial institutions etc.

[Ministry of Commerce (Office of the CCIE) EPII Section U.O. No. D/14/6/85/EP II/835 dated 30 June 1985]

Action taken by the Ministry of Finance

The issue relates to the Ministry of Commerce, which will be submitting a separate action taken note.

[Ministry of Finance (Department of Revenue) O.M. No. 604/8/84 DBK dated 19 September, 1985]

Further action taken by Ministry of Commerce

The report of the High powered Committee set up under the then Secretary, Ministry of Commerce for carrying out a review of the foreign trade policies and export promotion measures, has since been released. A copy of the Report was made available to the Parliament Library vide Ministry of Commerce OM No. 9(57)/85 EPL dated 28-8-1985. However, a copy of the report is again enclosed for ready reference.

[Ministry of Commerce (Office of the CCIE) EP II Section O.M. No. PF/14/6/85 dated 28 February 1986]

CHAPTER IV

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

The Committee further recommend that Government should consider the feasibility of omitting such items from the purview of the Duty Exemption Scheme where the duty incidence is very high or where there is a high market premium on the materials so as to minimise the chances of the abuse of the scheme. Alternatively at least levy of a minimum penalty equal to the premium in the Indian market may be made obligatory.

[Sl. No. 12—Appendix—Para 1.109 of 230th Report of the PAC (7th Lok Sabha)].

Action taken by the Ministry of Commerce

If items having a high rate of import duty are excluded from the purview of the scheme, one of the main purposes of the scheme would be defeated as in that case the exporters will have to first invest funds and then claim duty drawback. Therefore, the Government are of the view that items carrying high rates of import duty should not be excluded from the Scheme. However, the Advance Licensing Committee has identified some sensitive items where the temptation of misuse may be there and for such items either value limits have been fixed or imports allowed in instalments, and in addition, normally some bank guarantee is insisted upon irrespective of the category of exporter.

[Ministry of Commerce (Office of the CCIE) E.P. II Section U.O. No. D/14/6/85/EP II/885 dated 30 June 1985]

Action taken by the Ministry of Finance

The issue was considered by the Government but it was decided that in the interest of export promotion it is not feasible to omit the items, where duty incidence is very high or where there is high market premium, from the purview of the duty exemption scheme. However, to have a better control it has been decided to restrict im-

port of such high premium items and export of materials containing these through major customs ports|airports|ICDs where better expertise is available to detect any fraud. Whenever fraud is noticed, suitable penal action will be initiated by the customs authorities or by CCI&E as the case may be.

[Ministry of Finance (Department of Revenue) O.M. No. 604|8|84-DBK dated 19 September, 1985]

CHAPTER V

**RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF
WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES**

—NIL—

NEW DELHI;
21 March, 1986

30 Pahlguna, 1907(S)

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

PART—II

MINUTES OF 49TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 20 MARCH, 1986

The Committee sat from 15-30 hrs. to 16.20 hrs. in Room No. 50, Parliament House, New Delhi.

PRESENT

- | | | |
|------------------------------|---|-----------|
| 1. Shri E. Ayyapu Reddy | | —Chairman |
| 2. Shri Amal Datta | } | Members |
| 3. Shrimati Prabhawati Gupta | | |
| 4. Shri G. Devaraya Naik | | |
| 5. Shri Rajmangal Pande | | |
| 6. Shri H.M. Patel | | |
| 7. Shrimati Amarjit Kaur | | |

SECRETARIAT

- | | |
|----------------------|--------------------------------------|
| 1. Shri N. N. Mehra | —Joint Secretary |
| 2. Shri K. H. Chhaya | —Chief Financial Committee Officer. |
| 3. Shri Brahmanand | —Senior Financial Committee Officer. |

REPRESENTATIVES OF THE C&AG OF INDIA

1. Shri V. Sundaram, Director of Receipt Audit—I
2. Shri S. K. Gupta, Joint Director

3. The Committee then took up for consideration draft Report on action taken by Government on the recommendations contained in their 230th Report of PAC (7th Lok Sabha) on Customs Receipts—Duty Exemption Entitlement Scheme and adopted the same with the substitution of the word “reconsider” occurring in the last line of para 1.18 on page 12 by “should re-examine”.

4. The Committee authorised the Chairman to finalise the draft Reports and present the same to the House.

The Committee then adjourned

APPENDIX

Conclusions|Recommendations

S. No	Para No.	Ministry Deptt. concerned	Conclusion/Recommendations
1	2	3	4
1.	1.17	Ministry of Commerce & Ministry of Finance (Deptt. of Revenue)	<p>To sum up, the Committee in their 230th Report, had pointed out various defects in the operation of the Duty Exemption Entitlement Scheme. Some of the more glaring shortcomings were, absence of proper system of records both at the Offices of the Chief Controller of Imports and Exports (CCIE) and the Customs Houses, issue of advance licences without proper verification of the capacity of the importer to manufacture export, grant of extension for fulfillment of export obligations in a rather indiscriminate manner by the CCIE, substitution of imported materials in exported products and other malpractices, failure of the authorities to impose penalties for offences and defaults, and above all lack of proper co-ordination between the Ministries of Commerce and Finance. The Committee had recommended that Government should undertake a comprehensive review of the Scheme after collecting complete data from the field formations so as to identify the loopholes and deficiencies in the working of the Scheme and initiate necessary corrective measures. The Ministry of Commerce have in their action taken reply stated that a high level meeting between the Ministries of Finance and</p>

Commerce was held in which the relevant points were discussed and in pursuance of the recommendation of the Committee, a comprehensive review of the Duty Exemption Entitlement Scheme has been entrusted to the Indian Institute of Foreign Trade. The Ministry of Commerce have further stated that, without waiting for the results of that assessment, a number of steps have been taken based on the experience as well as mutual discussions. These measures include monitoring of the entire Scheme by the Ministry of Commerce, Computerisation, quarterly review of the Scheme by the Ministry of Commerce and streamlining of the administrative procedures. The Committee desire that the comprehensive review be completed expeditiously and necessary follow-up measures taken thereon promptly with a view to ensuring that the Duty Exemption Entitlement Scheme fully subserves its purpose and is not allowed to be abused by the unscrupulous elements.

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1.18

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In their earlier Report, the Committee had commented upon certain cases involving misappropriation of materials imported under the Duty Exemption Entitlement Scheme and the admitted failure of the authorities to impose severe penalties on such offenders. Emphasising the need to check recurrence of such abuses of the Scheme, the Committee had recommended that Government should consider the feasibility of omitting such items from the purview of the Scheme where the duty incidence was very high or where there was a high premium on the imported materials in the indigenous market. Alternatively, atleast levy of a minimum penalty equal to the pre-

miums on such products in the Indian market may be made obligatory. In their action taken replies both the Ministries of Commerce and Finance have maintained that in the interest of export promotion it was not feasible to omit such items from the purview of the Scheme. The Ministries have not offered any convincing explanation for not accepting the recommendation of the Committee. The action taken notes are also silent on the Committee's alternative suggestion for levy of minimum penalty in such cases equal to the premium on the product in the Indian market. What has surprised the Committee is that the stand now taken by the Ministry of Finance on the issue is contradictory to what the Ministry had stated earlier. Earlier in a note furnished to the Committee on the defects of the Scheme, the Ministry of Finance had themselves not only suggested that "items where the duty incidence was very high or where there was high premium on the materials in the market could perhaps be deleted from the Scheme", but also had identified such items as polyester fibre, polyester nylon filament yarn, zip fasteners, stainless steel sheets, costly chemicals etc." The Ministry have not offered any explanation for this change in their views on the issue. In this connection, the Committee's attention has been drawn to para 1.27 of the Report of the C&AG, Indirect Taxes for the year 1983-84, wherein Audit have pointed out a case of admitted fraud involving duty of more than Rs. 2 crores on import of polyester fibre under the Duty Exemption Entitlement Scheme. This further reinforces the

Committee's apprehensions about the possible misuses of the Scheme. Evidently, the Government in both these Ministries is influenced by the possible loss of exports if the Committee's recommendations were accepted. Presumably, this loss has been estimated and found to be sufficiently large to justify condonation of obvious malpractices. The Committee would be glad if details in this regard are furnished to them and would suggest that the Government should re-examine the whole question from this point of view.
