

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

(FIFTH LOK SABHA)

HUNDRED AND NINETY-FOURTH REPORT

IMPORT OF TEXTILE MACHINERY

MINISTRY OF COMMERCE

**[Paragraph 31 of the Report of the Comptroller
and Auditor General of India for the year 1973-74,
Union Government (Civil)]**



भारतम्

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(FIFTH LOK SABHA) ON PARAGRAPH 31 OF THE REPORT
OF THE C&AG FOR THE YEAR 1973-74, UNION GOVERN-
MENT (CIVIL) RELATING TO IMPORT OF TEXTILE
MACHINERY PRESENTED ON 30TH APRIL, 1976

<u>PAGE</u>	<u>LINE</u>	<u>FOR</u>	<u>READ</u>
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Shri H. G. Paranjpe—*Chief Financial Committee Officer.*

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

*Ceased to be Member of the Committee consequent on retirement from Rajya Sabha
W.e.f. 2-4-1967.

INTRODUCTION

I, the Chairman, Public Accounts Committee, having been authorised by the Committee, do present on their behalf this Hundred and Ninety-fourth Report on Paragraph 31 of the Report of the Comptroller & Auditor General of India for the year 1973-74, Union Government (Civil), relating to Import of Textile Machinery.

2. The Report of the Comptroller & Auditor General of India for the year 1973-74—Union Government (Civil) was laid on the Table of the House on the 30th April, 1975. The Committee examined paragraph 31 of the said Audit Report at their sitting held on the 17th July, 1975. The Committee considered and finalised this Report at their sitting held on the 27th April, 1976. Minutes of these sittings form Part II* of the Report.

3. A statement showing the conclusions/recommendations of the Committee is appended to the Report. For facility of reference these have been printed in thick type in the body of the Report.

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

5. The Committee would also like to express their thanks to the officers of the Ministry of Commerce for the co-operation extended by them in giving information to the Committee.

H. N. MUKERJEE,

Chairman,

Public Accounts Committee.

NEW DELHI;

April 28, 1976

Vaisakha, 8, 1898 (Saka).

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IMPORT OF TEXTILE MACHINERY

A. Audit paragraph

1.1. The textile machinery industry, unlike the century old textile industry, was started in the country in 1952. It has since then substantially increased its installed capacity gradually, and in 1973 had reached an annual production capacity of both machinery and spares worth Rs. 117 crores. Nevertheless, in recent years imports were as follows:

(Crores of Rupees)

	Machinery	Spares	Total
1969-70	3.64	6.13	9.77
1970-71	3.35	5.55	8.90
1971-72	2.19	10.48	12.67
1972-73	3.99	12.42	16.41
1973-74 (upto October 1973)	3.46	5.80	9.26

1.2. Prior to December 1969 there was no uniformity in obtaining export obligations against industrial licences, import licences and foreign collaboration agreements and for enforcing the obligations. The mode of expressing the terms of the export obligation varied from one licensing authority to another and also from commodity to commodity, e.g., while in some cases export obligation was expressed as a percentage of the production from the imported machinery, in others the obligation was in terms of the value of the imported machinery. The period of export obligation also differed, normally between 3 to 5 years. In December 1969 the form of undertaking for export obligation was standardised and the Chief Controller of Imports and Exports was made responsible for watching fulfilment of export obligations.

1.3. According to information furnished by Government (January 1975), 220 importers granted licences between 1957 and 1969 for import of textile machinery and spares were under obligation to export a portion of their production or to pay a fine in default. Of these 220 importers of textile machinery, till December 1974 nineteen had not discharged their export obligations or had not produced

evidence for the exports which they claimed to have made. Out of these 19 importers, evidence for exports was awaited from three partly or fully, four did not discharge their export obligations on the ground that full production with imported machinery had not started and another claimed that imported machinery was not capable of producing export quality cloth. Recovery of penalty of about Rs. 80 lakhs was outstanding against the remaining 11 importers. A test check disclosed as follows:

- (i) There was delay in preferring claims in the following two cases:—
 - (a) Mill 'A', under obligation to export 128.29 lakh yards of cloth during 1961-62 to 1965-66, had exported 22.92 lakh yards only. A notice for recovery of Rs. 10.53 lakhs as penalty was issued in May 1969. The amount has not yet been recovered (January 1975).
 - (b) Mill 'B' was to export 32.77 lakh yards of cloth during January 1963 to December 1966. The mill did not export. The notice for recovery of penalty of Rs. 3.27 lakhs was issued in August 1970. The case is *sub judice* (January 1975).

The Textile Commissioner stated (August 1974) that his policy had "all along been to see that exports under the bonds were made and foreign exchange was earned even if necessary by granting extensions instead of getting the bonds fulfilled by claiming penalty in rupees. According to this policy extensions were given for fulfilment of the bonds. Only in such cases where there was no possibility of any export taking place that action to recover the penalty was initiated."

- (ii) Export guarantee bond was not obtained from mill 'C'. Against 32 lakh yards to be exported by it between March 1960 and March 1965, it exported only 24.41 lakh yards. The mill is under the control of National Textile Corporation since 16th March, 1972.
- (iii) Mill 'D' imported machinery for production of cotton velvet and commissioned the machinery in October 1967. It had obligation to export 60 per cent of its production of cotton velvet upto October 1968. The mill, however, produced terry wool and terry viscose fabrics instead of cotton velvet and did not discharge its export obliga-

tion. No penalty has yet been recovered (January 1975).

- (iv) In March 1960, mill 'E' was granted licence for importing 5,000 looms. The mill was to export cloth of mixes waste yarn worth Rs. 10 lakhs per annum for three years after production had been established. It imported 2,500 looms by March 1965. The remaining 2,500 looms have not yet been imported (November 1974). The mill did not export any cloth on the ground that its export obligation would arise only after the remaining 2,500 looms were imported. As the export guarantee bond did not provide for penalty on a pro-rata basis, no penalty has been recovered (January 1975).

Government stated (January 1975) that "though certain number of spindles were sanctioned in this case, the party could not instal the machinery. Hence the Law Ministry has opined that the export obligation is not strictly speaking enforceable."

1.4. According to information furnished by Government (January 1975), there was no uniform practice in allowing import replenishment against exports effected up to March 1969. In some cases, where import of capital goods was allowed and export obligation was imposed, the import licences contained a condition that import of raw materials would not be permitted by way of replenishment against exports in discharge of export obligation. In some other cases there was no such stipulation in the licences for import of capital goods. In a third category of cases, the import licences specifically stated that normal replenishment benefits would be available on exports in discharge of export obligation. In June, 1964 the Port licensing authorities were instructed to ensure that no import replenishment was allowed against exports effected in discharge of export obligations by those whose licences for capital goods stipulated that no import replenishment would be allowed against such exports. It was, however, noticed by Government that import replenishment had been allowed even in some cases where the import licences for capital goods specifically stipulated that no import replenishment would be allowed for exports against export obligation. Government thereafter decided in December 1969 that benefits allowed to exporters (import replenishment, cash assistance etc.) who had no export obligation should also be allowed for exports effected in discharge of export obligation. The question of giving this benefit retrospective effect was not considered then. In February 1970, instructions were issued

by the then Ministry of Foreign Trade for allowing import replenishment and cash assistance with retrospective effect from 6th June 1966 on exports against export obligations. But subsequently, by a notification issued in May 1970, these benefits were given retrospective effect from April 1969. As regards exports in April 1969 or after against export obligations upto March 1969 the notification stated as follows:

“No benefits will be available on exports made in discharge of export obligation before 1st April 1969. Thereafter, if any licences have been issued against such exports, their value would need to be adjusted against the import licences due to the party.”

Import replenishment licences for Rs. 5.42 crores were issued upto April 1970 to exporters of cotton textiles for their exports against export obligations upto March 1969. As to adjustment of these import replenishments against future import licences, Government stated (June 1974) that “the question arises whether such a stipulation was specifically made in the legal undertakings executed by the concerned mills in regard to export obligations accepted by them. If the respective undertaking did not, for some reason, contain a statement that replenishment benefits would not be allowed on the exports in discharge of the obligations, it would not be fair to deny the units the benefits of import replenishment which may have been taken into account by them while determining their export prices” and that “a case to case decision would have to be taken.....”

1.5. Between April 1968 and May 1970 Government also paid about Rs. 57 lakhs to the Indian Cotton Mills' Federation for payment of cash assistance on these exports against export obligations upto March 1969.

1.6. Government stated (January 1975) that some representations had been received from the textile exporters who were served with notices of recovery/adjustment of export benefits in pursuance of the instructions issued in May 1970. Government further stated that “various issues of law and equity have been raised in these representations, which call for detailed and careful examination in consultation with the Ministry of Law”, and that “this exercise is being carried out.”

[Paragraph 31 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government, (Civil)]

B. India's dependence on imports

1.7. The century old textile industry in the country has been recognised as one of the five industries of high priority and its modernisation, rehabilitation and expansion depends, to a considerable extent, on the indigenous textile machinery manufacturing industry. The Audit paragraph points out that despite the advances made by the textile machinery industry since 1952, the country was considerably dependent on imports of machinery from abroad and that during the five year period from 1969-70 to 1973-74 (upto October 1973), machinery valued at Rs. 16.63 crores and spares valued at Rs. 40.38 crores had been imported from abroad.

1.8. The Task Force on the Textile Machinery Industry, appointed by the Planning Commission, had estimated that in 1972-73, the licensed capacity of the industry was of the order of Rs. 128 crores and the installed capacity was about Rs. 117 crores. The following table, compiled on the basis of the material furnished by the Ministry of Commerce indicates the installed capacity of the industry and production from the year 1969 onwards:

(Rupees in crores)

Year	Installed Capacity*	Production
<i>Complete Textile Machinery</i>		
1969	59.40	19.91
1970	73.80	30.23
1971-72	88.20	35.13
1972-73	102.60	32.41
1973-74	117.00	48.80
1974-75	**	77.24

*The installed capacity of the industry has been computed on the basis of an yearly average increase of Rs. 14.4 crores over the capacity of Rs. 45 crores in 1968 and Rs. 117 crores in 1973-74, as the relevant data for the period 1969 to 1973-74 were not separately available.

**It has been estimated that the installed capacity would have appreciated by 30% to Rs. 150 crores in 1974-75.

(Rupees in crores)

Year	Production
II. Textile Components/Accessories	
1969	17·02
1970	25·88
1971-72	33·00
1972-73	38·53
1973-74	43·86
1974-75	49·80

Note : In the case of components and accessories no separate assessment of the installed capacity has been made as these are mostly in the small scale sector. However, the installed capacity of this sector during 1972-73 has been estimated to be Rs. 70 crores.

1.9. The following table indicates the value of imports of textile machinery and spares since 1960-61:

(Million rupees)

Year	Machinery	Spares and accessories	Total
1960-61	82·45	149·67	232·12
1961-62	90·70	175·17	265·87
1962-63	95·74	168·20	263·94
1963-64	91·45	155·15	246·60
1964-65	100·31	175·39	275·70
1965-66	162·00	122·23	284·23
1966-67	164·00	140·47	304·47
1967-68	141·25	137·24	278·49
1968-69	61·11	96·64	157·75
1969-70	36·35	61·30	97·65
1970-71	33·46	55·55	89·01
1971-72	21·86	104·83	126·69
1972-73	39·92	124·18	164·10
1973-74	54·56	116·13	170·69

1.10. The Committee desired to know whether the country was going to be self-sufficient and self-supporting in textile machinery so as to reduce the dependence on imports. The Textile Commissioner stated in evidence:

“We are trying our very best to increase our level of machinery manufacture. The constant effort is to develop the machinery which is required by us; but for those items which are required in smaller number for which the capability has not yet been developed, we are dependent on imports. But we are trying to catch up. The production of textile machinery in the country has been going up. Last year the production was of the order of Rs. 80 to 85 crores. Efforts are being made to ensure that the machinery required by us and which can be produced by us in an economical way, are produced here.”

1.11. Asked to indicate the reasons for the import of spares and accessories worth several crores every year and the steps taken or proposed to be taken to achieve self-sufficiency in this regard, the Ministry of Commerce in a note replied:

“As is evident from the figures the textile accessories and components industry has been increasing its production at a fairly sharp rate. This has led to considerable import substitution. During the last 5 to 6 years, Textile Mills have added sophisticated machinery also in various departments like Processing, Weaving Preparatory as well as in the loom shed. Similarly, many art silk units as well as woollen units have also installed sophisticated looms as well as processing machinery. Such sophisticated machines are not currently being manufactured in India (e.g., shuttleless looms, pick at will automatic looms, warp knitting machinery, circular hosiery machines of the latest type, socks knitting machines etc. The units which have installed these machines are coming under the broad heading of textiles). The spare parts and components required of these sophisticated machines are being imported. In so far as woollen machinery is concerned, there are no established/reputed machine manufacturers in India as yet since the demand for such machines in India is not large. The value of the imports of all such spare parts obviously are reflected in the imports figures of spares and components. It is also possible that because of increase

in the cost and steep increase in exchange rates the value of imports have also gone high. It may be stated that the most commonly used components/accessories/spares needed in the textile industry are already being manufactured in India and there has been a significant import substitution in this field. Steps have already been taken to manufacture these sophisticated machinery including woollen machinery mentioned above and it is expected that the production of these machines would be commenced within the next two years and this will result in the reduction of imports of the corresponding spares/accessories/components."

1.12. In reply to another question whether Government was making attempts to eliminate the imports of textile machinery by helping to solve the problems of the indigenous industry, the Textile Commissioner stated in evidence:

"We always do it. We encourage the industry to develop new techniques indigenously. But it is not that in all machines we can be self-sufficient because the requirements of certain machines may be limited and it may not be economic to go in for the production of that item."

The witness added that Government was persuading and encouraging some manufacturers to take up the manufacture of some of the sophisticated items of machinery which are at present being imported and that a party in South India had been granted a licence to manufacture one of these items.

1.13. Since the indigenous production of textile machinery appeared to be considerably lagging behind, despite the industry having been in existence for well over two decades, the Committee enquired into the reasons therefor. The Commerce Secretary replied in evidence:

"This is a correct statement. We had a dialogue with the Ministry of Heavy Industries who are actually incharge of the textile machinery production. They have assured us that gradually they would be able to meet all our requirements of looms and spindles and also other accessories as far as possible and they are going to increase the production according to the capacity prescribed already till they reach the full capacity. It seems, according to them—I am not sure about the statistics myself

—in the earlier years the order books were not full, now they are full with order books.”

In a note furnished subsequently, indicating the reasons for the non-utilisation of the installed capacity of the indigenous industry to the optimum, the Ministry of Commerce stated:

“The primary reason for the non-utilisation of the installed capacity to the optimum is (i) paucity of funds with the mills and inadequate assistance from financial institutions (ii) During the whole of the Third Five Year Plan and during the major part of the Fourth Five Year Plan there has been practically no expansion of the cotton textile industry. New industrial licences for creation of fresh spindleage and loomage capacities were issued only since the 4th year of the Fourth Plan period. It will, however, be seen from the table that during 1974-75 the capacity utilisation was subsequently better as compared to the utilisation of capacity during the previous year.”

1.14. The Committee enquired into the percentage utilisation of the installed capacity of the textile industry. The Textile Commissioner replied:

“The spindle activity in 1972 on cotton yarn was of the order of 76 per cent in the first shift, 76.55 per cent in the second shift and 67.75 per cent in the third shift. This is the activity of spindles. Loom activity on cotton is 83.02 per cent in the first shift, 80.86 per cent in the second shift and 44.11 per cent in the third shift.”

When asked whether the machinery produced indigenously was performing well enough so as to ensure optimum utilisation, the witness replied:

“We have been making efforts to see that there is improvement. There has been improvement in 1973 in both the areas but because of power-cuts they could not do much.”

He added:

“There is room for improvement.”

1.15. Since paucity of funds with the mills and inadequate assistance from financial institutions had been stated as factors contributing to the non-utilisation of the installed capacity of the indigenous textile machinery industry, the Committee asked whether the Finance Ministry was aware of these constraints and, if so, the

steps, if any, taken in this regard. The representative of the Ministry replied in evidence:

“This problem has already received the attention of the Finance Ministry and certain steps are being taken to meet adequately the requirements of the textile machinery manufacturers. In the case of sick mills under National Textile Corporation, additional allotment of funds has already been made.”

The representative of the Commerce Ministry added in this context:

“I do not have the figures with me but in a recent statement made by the Chairman of the Textile Machinery Manufacturers' Association..... it was admitted that IDBI had gone to the extent of providing additional funds. But what has happened was that the list of various items had also become enlarged. Even the size of the total cake has not increased. The share of the textile manufacturers in that cake has not gone up significantly. So, they did wait upon the RBI or the IDBI and the Textile Commissioner also lent his good offices at that time and I am told that there is a possibility that perhaps when the second half year begins in September or so, they will do something to step up the availability of funds for the Textile Machinery Manufacturers. In the last about 1½ years there was also a fall in the order position of the textile machinery producers. In the year 1971, a list was drawn up of what we call 13 items of sophisticated machinery which were not indigenously produced in India. But since then the list of 13 items has certainly been reduced to the extent of 3 or 4 items. These machines have either been produced or in one or two cases production is yet to be made. But still the delivery date is very long and, as you will kindly appreciate, the textile machinery imports which are mentioned in these papers are for the purpose of export production. In spite of the fact that some of the machines are now beginning to be manufactured in India, there are still a few items which are to be imported, for example looms which are practically manufactured by one manufacturer in the world although there are imitations of them. Now, machinery like automatic looms and some other equipment are imported and the delivery of these machines is within six months. So, it is being selectively done and I would confirm to the Committee that there is a very close co-

ordination between the Heavy Industries and ourselves from day-to-day and week by week in terms of items which cannot be allowed, etc. For example, rotary screen printing machine is being manufactured in India by two parties or so but they may not be able to compete in the export market."

1.16. In a note furnished subsequently in this regard, the Ministry of Commerce stated:

"The main problem faced by the textile machinery manufacturers is the inadequate re-discounting facilities for the machinery manufactured and supplied by them. In order to mitigate their hardship the limit of re-discounting facilities from the IDBI was raised from Rs. 65 crores to Rs. 85 crores during the current bill re-discounting year (1-10-1974 to 30-9-1975). The question of increasing this limit further in the coming year is under consideration.

The textile machinery manufacturers have also asked the commercial banks for certain ad hoc assistance to be given to them in the form of increased hypothecation facilities, reduction by 10 per cent of the margin against all banking facilities such as hypothecation, pledge, etc. These suggestions are also under consideration by them."

1.17. The following table indicates India's exports of textile machinery and spares and accessories during the ten-year period 1964-65 to 1973-74:

Year	(Rupees in millions)		
	Machinery	Spares and accessories	Total
1964-65	0·111	3·317	3·428
1965-66	0·995	1·406	2·401
1966-67	0·855	2·885	3·740
1967-68	1·957	5·641	7·598
1968-69	5·457	10·791	16·248
1969-70	34·634	22·591	57·195
1970-71	35·333	35·852	71·185
1971-72	31·309	16·850	48·159
1972-73	21·449	15·773	37·222
1973-74	16·513	25·552	42·065

1.18. Some of the observations* of a World Bank team which was in the country in the recent past to make a thorough study of the problems of the indigenous textile machinery industry are of relevance in this context. In its preliminary report (December 1975) submitted to Government, the team had pointed out that, by and large, the textile machinery industry consists of small firms operating generally at 30 to 60 per cent of capacity to produce machinery of '1950—60 vintage with little prospect of sustained long-term growth', and that, unlike international firms, the industry in India 'has not developed a strong supplier base'. According to the team, of the 20 textile machinery units visited by it, which account for about 90 per cent of the industry's output, only 3 or 4, accounting for 25 to 30 per cent of the industry's output were considered as being 'internationally competitive, quality and price wise'. Their order backlog, however, extended from two to seven years. Another six or seven units, accounting for 35 per cent of the total output could, according to the team, become internationally competitive in three to four years, if an action programme to upgrade machinery design, manufacturing methods and marketing is carried out. The remaining 10 units could not have survived in a competitive environment and would require substantially more time and effort to overcome major structural deficiencies. The team observes in regard to these units:

"Indeed it might be preferable if some of these firms discontinue production of textile machinery and concentrate on their other products instead."

1.19. On the basis of both the likely demand for textiles and the financial capability of the textile industry, the World Bank team has estimated investment in textile machinery, over the next five years, at Rs. 370 crores. According to the team, the projected domestic demand and the expected changes in the world market for textile machinery would not provide the base necessary to support meaningful modernisation programme.

1.20. The team has, therefore, called for a 'drastic reappraisal' of the industrial licensing policy with a view to removing the 'structural weaknesses' in the textile machinery industry and has, *inter alia*, recommended that Government should 'avoid further fragmentation of the industry into a large number of small firms by limiting issuance of industrial licences to a small number of efficient firms'. The team's main suggestion is that the industry should be insulated from frequent fluctuations in domestic demand,

*Source : Economic Times' December 28, 1975.

which would require that it should double its exports to Rs. 31 crores in four years. Observing that this would require 'concerted action' between the industry and the Government, the team has made a number of suggestions to bring this about.

1.21. The major targets of the Fifth Five Year Plan in so far as the textile industry is concerned are (i) to increase the per capita consumption of cloth from 14.6 to 17.5 metres a year and (b) to increase exports from 500 to 1,300 million metres by 1978. It has been estimated that machinery valued at about Rs. 1,400 crores would be required to implement the plan (Rs. 500 crores for rehabilitation and Rs. 900 crores for expansion). The World Bank Team, in its Report referred to in the preceding paragraphs, has, however, pointed out that these targets were drawn on a need base and do not reflect the capabilities of the textile industry to finance the investment required or sell the cloth produced and has suggested a re-evaluation of the Fifth Plan targets and priorities for the textile industry and formulation, on the basis of a detailed cost benefit analysis of alternatives, of a comprehensive development programme and policies, with a view to restructuring the textile industry to provide low cost, durable cloth for the majority of the population and considerably expand exports of both cloth and garments. The outcome of this evaluation, according to the team, should serve as a basis for 'estimating the magnitude and composition of machinery needed for the next five years'.

1.22. The Committee note that in spite of the progress achieved by the indigenous textile machinery industry since 1952, the country is still largely dependent on imports and that during the period 1960-61 to 1973-74, the value of imports of textile machinery, spares and accessories totalled Rs. 2957.31 millions. Though indigenous production has increased at what the Commerce Ministry describes as 'a fairly sharp rate' and brought about substantial import substitution, the Committee are worried over the wide gap still subsisting between the installed capacity of the indigenous industry and its actual production, a gap which ranged between 31.5 per cent and 41 per cent of the installed capacity during the period from 1969 to 1973-74. If the targets proposed in the Fifth Five Year Plan for the textile industry are to be achieved, the indigenous textile machinery industry must take concerted steps to discharge the heavy responsibility cast on it. Unless this industry is able to meet the growing needs of our textile manufacture, essential and long-overdue modernisation, rehabilitation and expansion will be badly hindered.

1.23. Paucity of funds, inadequate assistance from financial institutions and the stagnation in the cotton textile industry have been cited as the primary reasons for the non-utilisation of the installed capacity to its optimum. The Committee understand that certain steps are being taken and more are under consideration by Government to meet the requirements of the textile machinery manufacturers. The Committee would urge Government to tackle the question on a priority basis. The Committee feel that had the capacity for the manufacture of textile machinery been developed on a realistic basis right from the inception, there would not have been this problem of gross-under-utilisation. In any case, the Committee stress that a realistic assessment should now be made and a perspective plan drawn up in consultation with the textile industry and the textile machinery manufacturers with a view to facilitating rationalisation and modernisation.

1.24. The Committee are seriously concerned to note that the machinery manufacturers, according to a study made by the World Bank, are producing machinery of "1950—60 vintage with little prospect of sustained long-term growth" and that only a few manufacturers accounting for only 25 to 30 per cent of the industry's output could be considered as "internationally competitive, quality and price-wise." This underlines the scope for improvement in quality and price of the machinery turned out by the textile machinery manufacturers. The Committee are of the view that there should be a strong Research and Development support given to the industry so that machinery design and manufacturing methods could be upgraded and the production made more competitive in quality and price. In the ultimate analysis, it is the quality, output and economics of the machine which would determine its acceptance by the textile industry and it is, therefore, in the interest of all involved in the industry that the quality of the machinery is improved at the earliest.

1.25. The Committee would, in particular, like the textile machinery manufacturers to take a special note of the increasing stress which is being laid on the manufacture of cloth of acceptable quality and at competitive rates for the general public, especially the weaker sections of society and like the textile machinery manufacturers to bring about the desired re-orientation in their manufacturing programmes with the help of R & D and in consultation with the textile mills.

1.26. The Committee feel that the Government have also been remiss in not monitoring closely the development and utilisation of

the capacity of textile machinery manufacturers, as otherwise things would not have come to this sorry pass. The Committee would like Government to rectify this deficiency without delay by keeping a close watch on the developments in the textile industry and correlating it with the capacity and utilisation of the textile machinery manufacturers so as to ensure that these twin sectors function in an integrated manner in the larger public interest.

C. Non-fulfilment of Export Obligations

1.27. The Audit paragraph points out that prior to 1969, there was no uniformity in obtaining export obligations against industrial licences and that it was only in December 1969 that the form of undertaking for export obligation was standardised and the Chief Controller of Imports and Exports was made responsible for watching the fulfilment of export obligations. The Committee asked why the form had not been standardised earlier even though it was evident that there were abuses. The Textile Commissioner replied in evidence:

“As far as I have been able to understand, when some defects had been noticed, the forms were standardised.”

1.28. When asked whether cases of default had come down after the standardisation of the form of undertaking for export obligation, the Chief Controller of Imports and Exports replied:

“After the new form was brought in, we had a number of cases where the export obligation had been entered into. These are about 2,000 and out of these 2,000, 643 are those cases where the export obligation has either been fulfilled or units did not utilise the import licences. The other cases are being watched and we are maintaining a register to watch the export performance and we get every year from these units a Chartered Accountant's statement of the export effected by them and this is verified by bank certificates of the actual exports. A complete watch is being kept on the export performance against these obligations.”

He added:

“These are the cases where either the machinery is being installed and not commissioned or they are continuing exports or in some cases export obligation will commence after 18 months of their commissioning.”

1.29. To another question whether the Law Ministry has been consulted in regard to the form and the enforcement of the export obligation, the representative of the Law Ministry replied:

“In regard to such points the Administrative Machinery has to tell us what are the loopholes that may arise.”

In this context, the Commerce Secretary stated:

“If we know the loopholes, I don't think we will fail to plug them.”

1.30. The Committee desired to know the latest position in regard to the fulfilment of export obligations by the 19 importers referred to in the Audit paragraph and whether evidence in support of exports which was stated to be awaited from three importers had since been obtained. The information furnished in this regard by the Ministry of Commerce is reproduced in Appendix I. In this connection, the Textile Commission stated in evidence:

“There were 220 cases in all in which these obligations were fixed and the obligation was in value terms of the order of 61 crores. We have 199 cases in which the entire obligation has been fulfilled. The only shortfall is of the order of 48 lakhs. There are 9 cases in which we have already recovered the shortfall of penalty wherever the *pro rata* penalty was to be recovered. Three cases are live cases in which the period is not yet over. In one case, the party has gone to the court. We are left with only 7 cases in which action is being taken.”

1.31. The Committee learnt from Audit that one of the four firms which did not discharge their export obligations on the ground that full production with imported machinery had not started was Mafatlal Fine Spinning and Weaving Co. Ltd., Bombay. When asked how a monopoly house like the Mafatlals could not commence production with the sophisticated imported machinery, the Textile Commissioner replied:

“It is a live case. Their export performance against the obligation fixed against them, has been much more than stipulated. It is still a live case. They have to export Rs. 21 lakhs worth of printed fabrics and maintain a previous export of Rs. 150 lakhs for 3 years. The period concerned is 28-1-1973 to 27-1-1976. During March 1973 to March 1975 for which we have got the figures, their total exports amount to Rs. 14 lakhs in the first year; and Rs. 54.50 lakhs

upto the end of March 1975. Regarding past exports, they had maintained it at Rs. 2.83 crores during 1973-74."

1.32. The Audit paragraph points out that one of the importers (M/s. Universal Export & Import Agency) had claimed that the imported machinery was not capable of producing export quality cloth. The Committee desired to know whether while issuing the capital goods licence, all the relevant factors had not been taken into account. They also asked as to why such machinery had been imported, if, as claimed by the importer, it was not capable of producing export quality cloth. The Textile Commissioner stated in evidence:

"The position is that this machine had been displayed in the local Industrial Fair Exhibition and the party purchased the machine locally. It was a GDR machine. After the machine was purchased it was found that it could not produce that type of cloth. The party took up the matter with the GDR machinery manufacturers and they said that this has gone out of their production line and that they would not be able to repair it and that, if the party wanted, they can sell a new machinery. So, it was not possible to enforce this condition."

1.33. When asked why the machine had been imported without prior inspection of the quality and without determining whether it was capable of producing the right type of goods, the witness replied:

"This machine was not specially imported by the party concerned. It was being displayed in the Industrial Fair wherefrom the party purchased it."

Since the machinery had been purchased apparently in an exhibition, the Committee desired to know how Government had come on the scene. The witness replied:

"Since this involved an outgo of foreign exchange, therefore, this obligation was laid on the party that he will have to export so much. When the party did not export, we verified it once and then a second time also, thinking the party may not have worked for three years. When we found that the party has not worked the machine, we wanted to find out the reason and we found that the machinery is not capable of production of that type. We consulted the Law Ministry and we were told that if we filed a civil

suit it will attract the clause about frustration because this machinery has not produced anything.”

1.34. In a note subsequently furnished in this regard, the Ministry of Commerce stated:

“M/s. New Universal Export & Import Agency was granted an import licence for the import of Malino machines with an export obligation to export Malino fabrics of the value of Rs. 3.80 lakhs within a period of three years i.e. from 10-4-1962 to 10.4.1965. This period was extended by one year upto 10.4.1966. After importing the capital goods the party represented that the Malino machines were defective and were not capable of producing exportable cloth. The case was also referred to Branch Secretariat of the Law Ministry in Bombay who opined that this case attracted the ‘doctrine of frustration’ as the machine was not functioning. The Textile Commissioner has ascertained that at present also the machine is not working. Since the terms of the bond was not feasible to be enforced, Textile Commissioner recommended for the closure of the case. This position was accepted by the Ministry and accordingly it was decided to treat the case as closed.”

1.35. With reference to the delay of about four years in issuing a notice for the recovery of Rs. 10.53 lakhs as penalty for the non-fulfilment of the export obligation relating to the period 1961-62 to 1965-66 by Mill ‘A’ (Marsden Spinning and Weaving Mills Co. Ltd., Ahmedabad) commented upon in the Audit paragraph, the Committee learnt from Audit that the Ministry of Commerce had stated (January 1975) as follows:

“M/s. Marsden Spinning and Weaving Mills Co. Limited, Ahmedabad were granted an industrial licence in 1957 for installation of 96 automatic looms. Export obligation fixed was 1,28,29,000 yards to be exported in a period of five years commencing from 1st April, 1961. The actual export performance reported by the mills (but without any documentary evidence) is 22.92 lakh yards.

However, before resorting to legal action against the parties through the courts which would involve substantial expenses in the shape of court fees etc., a decision has been taken to allow the mills a final extension of 2-3 years to fulfil their obligations. It has also been decided that in addition to the legal undertakings,

the mills should be required to furnish irrevocable bank guarantees for the estimated value of the undischarged portion of the export obligations. The idea was that if the mills failed to fulfil their export obligations, losses resulting therefrom could be recovered, from the bank guarantees. Before, however, the final extensions are granted, the Textile Commissioner has been asked to issue stiff show-cause notices to the parties to show as to why the conditions of the bond should not be imposed. The parties will also be asked to appear before the officer of the Textile Commissioner to explain their cases."

1.36. Explaining, at the Committee's instance, the reasons for the inordinate delay in issuing the penalty notice, the representative of the Commerce Ministry stated in evidence:

"In all these cases of export obligation we do not straight-way try to proceed and recover the amount. One might say this should be the only course. But filing civil suit and proceedings do take time. The other course is to allow them time to fulfil their export obligation. Now, efforts have been made in this direction which have been very largely successful in getting the parties to export within the next two to three years. But I admit this has not been successful in this particular case. In some cases we extended the period and we wanted to consider whether we should do it in this case. We asked the export figures for subsequent years from the Textile Commissioner and found that this firm had only made exports to the tune of 32.8 lakh yards in the subsequent seven years period between 1966—73. In the case of many other parties they liquidated their entire backlog but this party has only limped along. He is left with a sizeable export obligation and on present indications there is no hope and as such this hard decision has been taken that for the balance of it we will file a civil suit. Therefore, I may submit that one side of the picture is that Government have got the necessary powers but that will not achieve any objective because in many cases a recovery of Rs. 20 to 30 lakhs may or may not be possible. If it is recovered it will drive one more industrial unit to the wall. Therefore, some extension of time has been given as a principle but I am admitting to the Com-

mittee that in this particular case even the extension of time has not been useful in liquidating the export obligation. So, we were left with no other choice but to file a suit."

1.37. Since it had been stated by the Ministry to Audit that it had been decided that in addition to the legal undertakings, the mills should be required to furnish irrevocable bank guarantees towards the value of the export obligations, the Committee asked whether the bank guarantee had been invoked in this case. The Textile Commissioner replied:

"In this case, it is not a case of bank guarantee. It is a case of personal guarantee of Rs. 13.91 lakhs."

1.38. Asked whether this personal guarantee was not enforceable, the witness replied in the affirmative and added:

"That is why we are thinking of filing a suit for recovering the money.

He added:

"In fact, the case has been given to our solicitors for filing a civil suit for recovering this money and as was stated by the Joint Secretary, the only delay was this. Generally speaking, the thinking was that if we can encourage the industry to export, it would be much better. The idea was that once the industry makes contacts abroad, it will continue to export. This is the basic thing. The idea is, once they start exporting, then they continue to export and we continue to get our foreign exchange. But, in this case, as was stated by the Joint Secretary, this party has been consistently failing and that is why we wanted to take this hard decision and we have taken this hard decision to take this to its logical conclusion and recover the money from him because he is not showing any progress towards exports."

1.39. To another question as to why there had been an inordinate delay in taking the decision to file a suit for the recovery of moneys due to Government, the witness replied:

"If you desire, I can give you the details, day to day, what were we doing and in all these cases, we have prepared

a brief history of the case. On 28th January, 1964, the mill was requested by the Textile Commissioner to intimate about its installation. Then, in the same year, we have got in touch with them six times. The main thing was, we were trying to persuade the mill to export. The idea was that, once the mill starts exporting, it will continue to export and exports will keep on increasing. With this intention, we have been, almost every month or every second month, in touch with the mills as to what it was doing and what it was going to do. Then, on 27th May, 1969, ultimately, when we found that this mill was just not co-operating with all our efforts, extension and developmental efforts, we gave them notice. Then, we consulted the Law Ministry and then passed on the case to our solicitors for filing a suit."

1.40. Asked whether Government does not get angry and impatient over such delays, the Commerce Secretary replied:

"We could not agree with you more than this. We did get angry on this. I must say I have got very angry on this that no action has been taken. This is very bad. I agree that when we know that the party is incapable of performing his obligation, when we have just no hopes of getting this obligation fulfilled by him, there is no point in waiting any more. Certainly, I agree."

1.41. Mill 'B' (New Commercial Mills, Ahmedabad) had also not fulfilled, according to Audit, its export obligation and notice for the recovery of penalty of Rs. 3.27 lakhs was issued only in August 1970, after a lapse of four years. Asked why it should have taken so long in this case to issue the notice, the Textile Commissioner replied:

"Notice was given to this party on 11th August, 1970 and as soon as the notice was given, they filed a petition before the High Court. We have been pursuing the case before the High Court. But, the High Court has not yet decided the case. This export obligation was from 1963 to 1968. It is only after 1968 that we could take action."

1.42. Since the Ministry had informed Audit that a decision had been taken to allow the mills a final extension of two to three years to fulfil their obligations, the Committee desired to know when this decision had been taken and at what level. The represen-

tative of the Commerce Ministry stated:

"In November 1974 the Textile Commissioner had sent a report to the Commerce Ministry about the fulfilment or otherwise of the export obligations by the mills. After a review of the cases it was considered that in some cases extension of two or three years might be given on the rational which I have earlier indicated—one more effort might be made to get the export effected rather than go to court and file a suit against the party."

1.43. The Committee desired to know whether there were no other in-built safeguards, apart from the guarantees which were only enforceable in courts of law and, therefore, take a long time to enforce, to ensure that the refractory mills fulfilled their obligations. The Textile Commissioner stated:

"Bond is the only thing on the basis of which we can recover the money from them."

1.44. Since the Ministry apparently had no mechanism to take effective and quick action against defaulting mills nor any disciplinary jurisdiction, the Committee asked whether it would not be advisable to provide for suitable deterrent safeguards through an ordinance or legislation. The Commerce Secretary replied:

"Your suggestions is well taken."

1.45. As regards the default by Mill 'C' (Bengal Fine Spinning and Weaving Mills, Ltd., Calcutta), from whom no export guarantee bond had been obtained, the Ministry of Commerce had informed (January 1975) Audit as follows:

"Industrial licence was granted to the mills on 22nd May, 1974 for installation of 48 automatic looms having an export obligation of 31,99,920 yards to be fulfilled in a period of five years from March 1960 to March 1965. During the period of export obligation, the mills had exported 24,41,324 yards representing 75 per cent of the export obligation. The mills are under the control of National Textiles Corporation.

It has been decided to take a lenient view in these cases and not to enforce the bonds. However, the Textile Commissioner has written to the National Textiles Corporation to make all efforts to effect further exports to discharge the export obligations in full."

1.46. The Committee were subsequently informed by the Ministry that mill had exported 24.41 lakh yards against the obligation of 31.99 lakh yards and was closed in March 1970. As the former management had fulfilled 75 per cent of the obligation, the Ministry had decided that the case may be closed. The authorised controller had, however, promised to take steps to fulfil voluntarily the balance obligation.

1.47. Another Mill 'D' (Messrs. Kishanchand and Co., Bombay) had also not discharged its export obligations and though the machinery had been imported for the production of cotton velvet, the mill had produced only terry wool and terry viscose fabrics. Explaining, at the Committee's instance, the reasons for not recovering any penalty for the default, the Textile Commissioner stated in evidence:

"This is one of those 7 unfortunate cases. In this case, the machinery which the party imported was for corduroy and velvet, but unfortunately the machinery could not produce exportable type of cloth. The party wanted some other machinery to be imported so that they could make exportable quality of goods. We took a decision not to allow the import of this additional machinery. In the meanwhile, a new export liability is being fixed on the party to export the product which they are capable of manufacturing on these machines."

1.48. The Committee learnt from Audit that the Ministry of Commerce had, in January 1975, stated as follows:

"The amount recoverable from Messrs. Kishanchand and Co., Bombay against their export guarantee bond dated 16th October, 1963 for failure to fulfil export obligation is Rs. 2 lakhs for which a demand notice was issued to them on 24th September 1974 by this office. This firm has made certain representations to the Ministry of Commerce for regularising their manufacturing non-cotton fabrics which is under consideration at their end."

1.49. Pointing out that though the machinery had been commissioned in October 1967, it had taken as long as 7 years to issue the demand notice for the penalty, the Committee desired to know why this should have taken so long, particularly if the machinery could not, as claimed, produce cotton velvet. The Textile Commissioner stated:

"Soon after the installation of machinery, which the party imported, they approached us for permission to import

processing machinery. We were not permitting them to import that machinery. Their contention was that if they are not allowed to import this processing machinery which would finish the cloth in such a way as would be exportable, it would not be possible for them to manufacture the cloth which could be exported. They applied simultaneously that if they were not permitted, they might be given some change in the licence."

1.50. As regards the case of Mill 'E' (Messrs. Arthur Imports and Exports Co., Bombay), commented upon in the Audit paragraph, the Committee learnt from Audit that the Textile Commissioner had stated (January 1975):

"The Bond was executed by Messrs. Arthur Imports and Exports Co., Bombay, on 25th September 1964 with personal guarantee of Rs. 10 lakhs. Export obligation had not commenced as all the 5000 spindles had not been installed. There was no provision in Bond for recovery of penalty or enforcing export obligation on pro rata basis; as such, no notice for payment of penalty was issued. In view of this position, the question of indicating the amount recoverable from the firm does not arise. This case is also under further examination of the Ministry of Commerce, New Delhi."

The Committee were also informed that the industrial licence had been given for 5,000 spindles and not looms.

1.51. The Committee desired to know the reasons for Messrs. Arthur Imports and Exports Co., not importing and installing all the 5,000 spindles for which licence had been granted. The Textile Commissioner stated in evidence:

"He got an industrial licence for 5,000 spindles, according to which certain obligations were placed on him. He entered into a bond and an agreement. During that period while implementing this licence he installed 2,500 spindles."

He added:

"The question is that they got a licence for 5,000 spindles. Now the industries even when they get a licence, they do implement the licence in stages. In the first stage he asked for an import licence of 2,500 spindles. He got the licence for 2,500 spindles and installed them. Then

the other 2,500 spindles he has not yet installed. That was the time we started giving him notice. We consulted was the time we started giving him notice. We consulted He is taking the plea, 'Since I have not installed 5,000 spindles, this should not be recovered from me because until I instal 5,000 spindles, you cannot recover it from me'."

The witness stated further:

"Even those 2,500 spindles which he has imported are not commissioned. That is, he is not producing anything out of these 2,500 spindles. They are lying idle."

In a note subsequently furnished to the Committee in this regard, the Ministry of Commerce stated:

"Import licences for all the 5,000 spindles were issued to the firm, but they chose to import only 2,500 spindles for reasons best known to them."

1.52. Asked whether there was no check on the installation and commissioning of imported machinery, the Textile Commissioner replied:

"This is the point at which we consulted the Law Ministry. They gave us a certain advice that action should be taken under the Industries Development and Regulation Act for non-fulfilment of industrial licence commitment action could be taken only in accordance with the Industrial Development and Regulation Act and on this point the Law Ministry advised us that Section 12 of the Act provides firstly for revoking the licence if the licensee fails to establish or take effective steps to establish the new industrial undertaking within the time specified and (2) varying or amending any licence issued under Section 11 and 11A. The proviso to sub-section 2 lays down that no such power to vary or amend shall be exercised after effective steps have been taken to establish a new industrial undertaking. The expression 'effective steps' has been defined in the Registration and Licensing of Industrial Undertakings Rules. If according to the definition, effective steps have been taken in the present case, it is not possible to vary or amend the licence under Section 12 of the Act."

1.53. Messrs Arthur Imports and Exports Co., Bombay had also earlier figured in a case relating to the import of woollen garments

under mis-declaration as rags which had been examined by the Public Accounts Committee (1973-74). The firm as well as an associate firm, Shree Krishna Woollen Mills, had also figured in a case relating to the purchase of blankets for the Armed Forces, which had been examined by the Public Accounts Committee (1974-75) in their 187th Report (Fifth Lok Sabha) and again by the Public Accounts Committee (1975-76) in their 198th Report (Fifth Lok Sabha), who had, *inter alia*, recommended that business dealings with Shree Krishna Woollen Mills and any other firm or company owned, managed or controlled by the Directors of this firm should be banned. The Central Bureau of Investigation had also recommended the banning of business dealings with Shree Krishna Woollen Mills. Asked whether the witness was aware that this particular firm and its associates had come in for adverse comments repeatedly by the Public Accounts Committee and the Central Bureau of Investigation, the witness replied:

“Personally speaking, I have come to know of this thing only just now, after the Chairman has mentioned these things. I thought it was one of the companies and I only looked at this particular case and nothing else.”

The representative of the Commerce Ministry stated in this connection:

“The facts surrounding this case were known and there is a very conscious attempt to pursue this party. I would like to inform the Committee how exactly this particular situation has arisen. As the Textile Commissioner pointed out, industrial licence was issued to the party on 28th March 1960 for 5,000 spindles. Bond had to be effective from the time the party installed all the 5,000 spindles. Party has taken shelter saying that they had imported only 2,500 spindles and these 2,500 spindles till today have not been brought into commission. Thus there is no obligation on their part. From that time we have been pursuing this case. We served the party with notices. In 1972 the then Additional Textile Commissioner observed that legal advice was sought on the subject and we cannot enforce the bond because the party is saying that they have to wait till 5,000 spindles are installed.

No other help or assistance has been given to this units. But so far as pursuing of this bond was concerned, production has not started. Even 2,500 spindles had

not been utilised upto this date. Therefore, the party was not in a position to commence the export obligation. This was our difficulty. On the legal point the advice was that we could not proceed in terms of the bond."

1.54. Asked since when this case was under examination by the Commerce Ministry, the Ministry replied, in a note, that this was under examination since 1965.

1.55. The Committee desired to know when the export obligation was to commence, according to the bond executed by the firm. The representative of the Commerce Ministry stated:

"'From the date the industrial undertaking is established'. This is the wording."

1.56. Asked whether every bond was similarly worded, the Textile Commissioner replied:

"It depends upon the type of import. The bond varies from case to case and in each case we got the bond vetted from the Law Ministry."

1.57. To another question whether there was any provision in the bond for the pro rata fulfilment of the obligation, the witness replied:

"This provision is not there."

1.58. When the Committee pointed out that since the wording of the bond implied that the export obligation would commence only after the industrial undertaking was 'established', when a particular party would choose to establish the industry was anybody's guess, the representative of the Commerce Ministry replied:

"In fact this is the stand that he has taken."

The Textile Commissioner added:

"Only this person has taken this type of plea. This is the only person who has done like that."

1.59. A copy of the export bond entered into by the firm furnished at the Committee's instance, by the Ministry of Commerce and the copies of the notes exchanged between the Ministries of Commerce, Industrial Development and Law are at Appendix II. The Ministry also added that the bond in respect of this firm was cleared by the Ministry of Law before execution.

1.60. As regards the present position of the case, enquired into by the Committee, the Textile Commissioner stated in evidence:

“As things stand we were advised by the Law Ministry and the representative of the Law Ministry will be able to say, no action may be possible until there was an amendment to the Act.”

The representative of the Law Ministry stated in this context:

“We have expressed our opinion. We have given as far back as 1968. Two questions have been raised. The bond says: ‘Whereas the owners applied to the Government in the late Ministry of Commerce and Industry for permission to establish a new industrial undertaking at Bombay for the manufacture of mixed waste yarn; and whereas the Government has permitted the establishment of the said industrial undertaking by the owners, *vide* licence dated 28th March, 1960 issued under the provision of Industries (D&R) Act, 1951; Now the condition of the above written bond is such that if the owners shall: ‘(a) from the date the industrial undertaking is established, export either mixed waste yarn or cloth made out of mixed waste yarn’. Now, what is this term ‘Industrial undertaking?’ It is Industrial undertaking as mentioned in the industrial licence. These words will have effect in enforcing the bond. If we go to the court, the question which arises will be whether there is any failure to fulfil the obligation under this particular bond. Now, with reference to this word ‘Industrial establishment’, as contained in the first page of the bond, has it or has it not been established? On this the courts are taking a strict view while enforcing the bonds.”

1.61. With reference to the present position of penalties due to be recovered from different mills, the Textile Commissioner stated in evidence:

“The total penalty to be recovered is of the order of Rs. 7.99 lakhs for value bonds. In certain cases it is quantitative obligation. Against 718 million meter yards we have to recover penalty of Rs. 74 lakhs. The rest of it had already been performed.”

Asked whether any amounts had become irrecoverable, thereby adversely affecting Government’s interests, by the operation of the

law of limitation, the representative of the Law Ministry replied:

“The period of limitation for the Government is 30 years. So, I do not think there will be any difficulty in regard to any of these cases.”

1.62. Incidentally, the Committee's attention had been drawn to the following news item which had appeared in the 11 July, 1975 issue of 'Economic Times' on the refusal of Rayex India Ltd., a company floated by the Art Silk and Rayon Textiles Promotion Council, to lift certain machines imported on its behalf by the State Trading Corporation:

“The Projects and Equipment Corporation of India is likely to initiate legal action against Rayex India Limited for its reported refusal to lift 4 art-silk sizing machines imported on its behalf by STC and make payment for the same. The imports of these machines were made about 9 years ago and these were lying with STC all along because Rayex India, a company floated by the Silk and Rayon Textile Export Promotion Council to handle imports of these machines did not clear them. According to STC, Rayex apparently did not do so because of lack of finance. The matter is now being dealt with PEC since it is responsible for import and Export of engineering goods.

It was decided recently that PEC should dispose of these machines on 'as is where is' but no offer of purchase had come. The c.i.f. value of these machines was Rs. 43.19 lakhs, the customs duties totalled Rs. 11.5 lakhs and along with godown and other charges, it is now amounted to Rs. 71.77 lakhs. Since there were no buyers, PEC sent a demand notice to Rayex that it should lift these machines and make payment. It is understood that Rayex had replied in negative and disowned their liability in respect of these machines.”

1.63. Explaining, at the Committee's instance, the facts of this case, the representative of the State Trading Corporation stated in evidence:

“Some machinery was imported under the Japanese loan through the Japanese Textile Machinery Manufacturers' Association. Rayex was an organisation, formed by the Art-silk Export Promotion Council and it had contracted for the import of sizing machines—for sizing of yarn of good quality. They were unable to give guarantee. This was on the basis of deferred payment. The Gov-

ernment therefore asked the STC that they should enter into contract with the Japanese exporter. So, a corresponding back to back contract was entered into by the Rayex India Ltd. with STC. These contracts were made and some advance payment was also made by the Rayex India Ltd. When the machines were imported, Rayex was unable to take delivery of the machines or to make payment. The machines were taken delivery of by the STC and are now in the warehouse. The matter was followed up with Rayex for some time and still they are not able to take delivery and make payment. A number of potential users of this machine were contacted including the Punjab Wool Controller. The question arose here was of supply of nylon yarn to feed this machine. At that time nylon yarn was imported, so a number of proposals were made including the one that the machines should be set up on a cooperative basis and yarn should be supplied to small scale weavers. The matter took a little time and ultimately in 1972 the Government did approve a proposal that this should be offered to select top exporters and that they would be given nylon yarn of certain value—in lakhs—out of which they will have an export obligation for 200 per cent of c.i.f. value of machines and 100 per cent of c.i.f. value of raw materials within 3 years to export 15 per cent in the next two years or so. While the machines were offered to the exporters, in the meantime a court injunction was obtained by some people and they claimed that the list of the names of exporters which made were out in consultation with the Textile Commissioner did not include their names. The court injunctions were ultimately lifted by the end of 1973 or beginning of 1974 for four machines. For the remaining two machines, the court case is still pending and for these four machines again offers were made to the potential users who had expressed their interest in these machines but ultimately they all backed out because in the meantime the policy changed and it was indicated that it would not be possible to give them imported yarn. These machines were still lying and Rayex could not lift them. STC was asked to go into it because it was a concern sponsored by an Export Promotion Council. It was, therefore, decided we should sell them on 'as is where is basis'. Advertisements were put in the main newspapers in February, 1975 but these brought forth no

results. We are continuing with these efforts. There are about 540 cases in which these machines are laying in the warehouse. The intention now is to have them sorted out to erect one machine and ask potential customers to see its operation and then try to sell them on that basis."

1.64. Asked whether the State Trading Corporation reposed so much confidence in Rayex as to retain the machinery for nearly a decade, the witness replied:

"This was done as an export promotion measure because they were unable to import it themselves at that time. STC had no reason to believe that a concern sponsored by the Export Promotion Council would not have the financial resources to perform the objective for which it was formed and for which Government asked STC to enter into a contract with the foreign supplier on behalf of Rayex to import the machines and supply them to Rayex."

1.65. To another question whether Rayex was still in existence and the Corporation had dealings with it, he replied:

"They are in existence in name and they have an office. But for all practical purposes, they are dormant so far as export promotion efforts are concerned. We are not dealing with them, but we are making efforts to recover some money. But they have no tangible assets."

1.66. The Committee desired to know whether 9 years earlier, when STC had undertaken the purchase of the machinery on behalf of Rayex, they were reputable and financially viable. The witness stated:

"At that time this organisation had been formed perhaps not very long ago. The objective was, this will be a spear-head of export efforts, disseminating this type of machinery for producing good quality sizing beams for yarn which would help the export effort particularly of small-scale concerns. The development of the situation subsequently was not as expected by Government at that time."

1.67. In reply to another question whether the leading personalities and mills in the industry were not members of Rayex, he stated:

"We were not in contact with the big bugs in the industry. This organisation was formed by the Rayon and Art Silk Export Promotion Council."

When the Committee pointed out in this context that the organisation must have had some credibility for the State Trading Corporation to have underwritten the purchase of the machines on their behalf, the witness replied:

“The credibility was that this organisation was formed by the Export Promotion Council perhaps with the approval of Government. STC acted on that basis.”

The Committee asked whether Export Promotion Councils were recognised by Government, without having their credibility tested, the Commerce Secretary replied:

“Export Promotion Councils are non-trading bodies registered under the Societies Act. There is no provision in their articles of association to enter into any kind of business proposition. This Export Promotion Council sponsored the setting up of a company known as Rayex.”

1.68. The Committee desired to know what steps were being taken against Rayex. The representative of the State Trading Corporation stated:

“The case is now with our solicitors for taking legal action against them to the extent any recovery could be made. Further action to recover over dues will be taken as per legal advice.”

1.69. Asked whether Government could not have got nylon yarn of adequate quantity and worked the machines, the witness replied:

“No. We could not find a buyer in the first instance because any buyer would have required imported nylon yarn and that did not meet with Government’s approval. We submitted a number of alternatives and finally when we did have a scheme, we had a court injunction. After that, the question of supplying nylon yarn was not there.”

If it was such a speculative proposition, the Committee asked why the STC had, in the first instance, agreed to import these machines which could not be utilised. The witness replied:

“We thought these machines would produce good quality sizing beams for yarn which would help the export effort in synthetic textiles. But this objective was not fulfilled.”

He added:

"It was not envisaged that STC would be called upon to use their own money because the contract agreed upon was that while STC would be guaranteeing to the foreign supplier, Rayex would be paying the instalments to the STC. In fact, they did pay the first instalment of 10 per cent, but subsequently they got into difficulties."

1.70. The Committee are concerned to note that 19 out of the 220 importers who had been granted between 1957 and 1969 licences for the import of textile machinery and spares had not, till December 1974, either discharged their export obligations or produced evidence for the exports claimed to have been made by them. While some of these cases have since been decided, three mills (Orissa Textile Mills, Mafatlal Fine Spinning and Weaving Co. Ltd. and Ahmedabad Manufacturing & Calico Printing Co. Ltd.) have been asked to furnish evidence in support of their further exports and action has been initiated to file civil suits for the recovery of the penalty for non-fulfilment of export obligations from three other mills (Mahendra Mills, Marsden Spinning & Weaving Mills Ltd. and Jagatjit Cotton Textile Mills). In one case, (Bengal Fine Spinning & Weaving Mills Ltd.), the authorised controller of the mill, which was closed in March 1970 and was taken over by the National Textile Corporation in 1972, is stated to have promised to take steps to fulfil voluntarily the balance obligation of 7.58 lakh yards. Another case (New Commercial Mills) is stated to be pending before the High Court and is, therefore, sub judice. A total penalty of Rs. 80 lakhs remains still to be recovered. As many of these cases have now been pending finalisation for very long periods, the Committee desire that immediate steps should be taken to finalise them.

1.71. The Committee are perturbed that even in cases of established default, Government took much time to invoke and enforce the provision for the levy of penalty in the bonds executed by the defaulting parties. For instance, in the case of Marsden Spinning & Weaving Mills Co. Ltd., the export obligation was to be discharged in a period of five years commencing from 1 April, 1961. Its actual export performance, as against the obligation of 128.29 lakh yards, was reported to be only 22.92 lakh yards; even for this figure, there is no documentary evidence. Yet, the demand notice for the recovery of penalty of Rs. 10.53 lakhs was issued only on 27 May, 1969, after three years of the lapse. Seven more years have elapsed since then and the decision to file a civil suit for the recovery of the penalty is yet to be implemented. Again, in the case of New Commercial Mills, though the export obligation, valued at Rs. 32.77 lakhs,

was to be discharged by December 1966, demand notice for the payment of penalty for not having effected any exports, was issued nearly four years later. Similarly, in the case of Kishanchand & Co., though the imported machinery had been commissioned in October 1967, and though it was also known to Government, 'soon after' the installation of the machinery, that the imported machinery was not capable of producing 'exportable quality cloth', notice for the penalty of Rs. 2 lakhs was issued some seven years later, in September 1974. In respect of Mahendra Mills and Jagatjit Cotton Textile Mills, notices for the recovery of penalties of Rs. 33.53 lakhs and Rs. 21.56 lakhs had been issued respectively on 20 February 1970 and 13 July 1971 and a decision to file civil suits against the mills was taken only in 1975.

1.72. The Committee have, in this connection, been told of an official decision that before resorting to legal action necessarily involving expenditure of money and time, a period of no more than two to three years would be allowed to the defaulting mills to fulfil their export obligation. While the Committee might concede that there is some justification for this decision, they note that this decision was taken only recently in November 1974 after a review of the pending cases. This implies that prior to 1974, the action taken in this regard had been inadequate. The Commerce Secretary concedes that when a party is apparently incapable of performing his obligation there is no point in waiting indefinitely. The Committee would, therefore, require the reasons for the delay in issuing demand notices and in initiating legal proceedings, wherever called for, to be investigated in each case with a view to appropriate action.

1.73. It would also appear that apart from the bonds and bank or personal guarantees taken from the importers of textile machinery stipulating the performance of certain export obligations, there is no mechanism available with Government to take effective and quick action against defaulters and that recourse has, therefore, to be necessarily had to legal action, in cases of default, which is often protracted and time-consuming. With a view to overcoming these legal and other difficulties, the Committee suggest that Government may take a bond, against a bank guarantee, from an applicant before granting the licence for a sufficiently high amount and in such terms which would make the amount forfeitable to the Government at its discretion in case there is failure on the part of the licenced unit to faithfully discharge the obligations attached to the licence.

1.74. Yet another aspect which compels attention is the lack of uniformity in the undertakings obtained from the importers for the

fulfilment of export obligations. While bank guarantees had been obtained in some cases, only a personal guarantee had been obtained in the cases of Marsden Spinning & Weaving Mills Ltd. and Arthur Imports & Exports Company. Surprisingly, in one case (Bengal Fine Spinning & Weaving Mills Ltd.), no export obligation bond was obtained at all and unless the balance obligation is fulfilled voluntarily, as promised by the mills' authorised controller, the chances of enforcing the export obligation are uncertain. Again, while in the case of Lakshmi Ratan Cotton Mills and Mysore Spinning & Weaving Mills Ltd., discharge of the obligation on a pro-rata basis of the looms actually installed, had been provided for, an impasse has been reached in the case of Arthur Imports & Exports Company, where since only 2,500 spindles against the 5,000 spindles for which licence had been issued have been imported and installed, the importers have taken the plea that they are not bound to fulfil their export obligation till all the 5,000 spindles are installed. There has, thus, been a recurring inconsistency in this regard which has often caused peculiar complications. The Committee, therefore, desire that the existing provisions for prescribing and enforcing export obligations should be reviewed in detail and streamlined. Clear-cut and uniform criteria which are enforceable should be laid down in this regard to prevent abuses.

1.75. The Committee, in particular, take an extremely serious view of the non-fulfilment of the export obligation by Arthur Imports & Exports Company on the ground that the obligation would arise only after all the 5,000 spindles, for which the industrial licence had been issued, are installed. What is even more deplorable in this unsavoury episode is that even the 2,500 spindles imported by the firm are yet to be commissioned and the valuable foreign exchange spent on the imports has remained unproductive. It is, therefore, evident that 'effective steps' have not been taken for well over 15 years, by the importers for establishing the industrial undertaking for which the licence had been issued and it is distressing that on account of legal hurdles, Government have been placed in a helpless and embarrassing position. Though the case has been 'under examination' in the Commerce Ministry since 1965, no effective solution has yet been found to break the deadlock. The Committee have been informed in this connection that a second legal opinion has now been sought and would like to know what it is and what has been done. Since the Law Ministry appears to hold the view that an amendment to the Industries (Development & Regulation) Act would be necessary, the Committee desire that this should be examined quickly, in consultation with the Attorney General, and necessary action initiated.

1.76. The reasons for the delay of over ten years for the 'examination' of the case by Government have also not been satisfactorily explained. The Committee would like a more specific clarification and the reasons why the delay could not be avoided. Having regard to the fact that this particular firm and its associates have earlier come in for adverse comments repeatedly by the Public Accounts Committee and also by the Central Bureau of Investigation, the Committee desire that the circumstances leading to the non-commissioning of the 2,500 imported spindles by the firm should be investigated in detail with a view to ascertaining if any mala fides were involved. The Committee would await a specific report in this regard.

1.77. Incidentally, the Committee's attention has been drawn to the refusal of Rayex India Ltd., a company floated by the Silk and Rayon Textiles Export Promotion Council, to lift four art-silk sizing machines imported about a decade ago, on its behalf, by the State Trading Corporation at a cost of Rs. 43.19 lakhs plus customs duties amounting to Rs. 11.50 lakhs. The machines which had been imported to help in the export effort in synthetic textiles have so far failed to fulfil the objective and the State Trading Corporation which had under-written the purchase has been placed in an embarrassing predicament with unwanted machines on its hands on account of the default and dilatoriness of Rayex India Ltd. The Committee have been informed that legal advice has been sought for the recovery of the dues from the company and would like to know what has happened since. Early action should also be taken to dispose of the machines.

D. Incentives for Export Performance

1.78. Since the Audit paragraph pointed out that there was no uniform practice for allowing import replenishment against exports effected upto March 1969, the Committee desired to know why there should have been such a proliferation of different kinds of practices, which invariably led to difficulties in implementation. The Commerce Secretary stated in evidence:

"These are matters which are discussed case by case when the licence is being granted; and there is a licensing committee headed by the Secretary (Industrial Development) which goes into those cases. There is a weekly meeting and I suppose every case was discussed separately. The Textile Commissioner would not know how this particular kind of a decision came to be taken in a particular case; but if you like, we can certainly go into these cases, take out the file and find out whether some discussion existed."

1.79. In view of the fact that the procedure in this regard did not appear to be consistent, the Committee desired to know whether there were any difficulties in streamlining the procedure for allowing import replenishment so that there was little scope for discretion. The Commerce Secretary replied:

“It seems that in each case it might have been different kind of export obligation. In some export obligation, it appears, there was specific provision, export obligation will be allowed. In others there was a condition, they will not be allowed. There are certain areas where it does not say anything about export incentives. It was presumed, since they were exporting, as every one else was exporting, even though under the obligation, they are eligible. This matter came to a head sometimes in 1969. The Government decided at that time about this. The question arose after the decision was taken whether this should be given retrospective effect or recovery should now be made. In that context it was decided (it was a decision between the Ministries of Finance and Commerce) that from 1-4-1969, we will allow this benefit and earlier than this we will recover. This is the position.”

Since it had been stated that a decision in regard to the procedure for the grant of import replenishment, which would be effective from 1 April 1969, was arrived at between the Commerce and Finance Ministries, the Committee called for a copy of this decision. In reply, the Commerce Ministry furnished to the Committee a copy of the General Licensing Instruction No. 36/70 dated 30 May 1970, which is reproduced in Appendix III.

1.80. According to the Audit paragraph, it had been noticed by Government that import replenishment had been allowed even in some cases where the import licences for capital goods specifically stipulated that no import replenishment would be allowed for exports against export obligation. When the Committee enquired into the reasons therefor, the Commerce Secretary stated:

“The Textile Commissioner’s opinion was that there was probably no bond like this saying that no export incentive should be allowed. But, if there was a case like this, in the notice of Audit, we will have to go into it.”

When the Committee pointed out in this connection that this statement had been made in the Audit paragraph on the basis what had

come to Government's notice, the witness replied:

"We will have to go through case by case with reference to the bond and with reference to the licensing restrictions."

The Committee learnt from Audit that in reply to an Audit query in this regard, the Ministry had stated:

"It appears in some cases...the sponsoring authorities failed to act on these stipulations and allowed the replenishment benefit to the different parties."

1.81. The Committee, therefore, desired to know the number of cases in which import replenishment was allowed although the import licences for capital goods specifically stipulated that no replenishment would be allowed for exports against export obligation, and the total value of imports against such licences. In a note, the Ministry of Commerce stated:

"In no case import licences for capital good specifically stipulated that no import replenishment would be allowed for exports against export obligation."

Reply to the other part of the question, i.e. total value of import against such licences, therefore, does not arise."

1.82. The Audit paragraph also points out that though the notification subsequently issued in this regard had specified that no benefits would be available on exports made in discharge of the export obligation before 1 April, 1969, import licences for Rs. 5.42 crores were issued upto April, 1970 to exporters of cotton textiles for their exports against export obligations upto March, 1969. Asked the reasons for this, the Commerce Secretary replied in evidence:

"They were to be recovered. Wherever they were not payable they were to be recovered."

He added:

"As far as possible we have taken the stand in the case of non-textiles that they are to be recovered in all cases. I think the whole of it has been recovered."

As regards the position in respect of textiles, enquired into by the Committee, the witness replied:

"General policy does not affect merely textiles. Government took the decision about the cash assistance and

the import replenishment that were being given earlier than 1969 April. It was a general decision which affected all other industries also and we have enforced it in all other industries and, we have to enforce it in the textiles."

He stated further:

"The latest decision of the Government is that it should be given after April, 1969 and not earlier."

The Committee, therefore, asked whether this amount would be recovered. The witness replied:

"This has to be recovered. They have been making representations and all that kind of thing. That is beside the point."

He added:

"That is all across the Board. How can we make a dispensation in the case of cotton textiles at all? We will of course have to go into each case and, wherever there is a specific case that they received incentives, then of course they would have to be eligible for it."

1.83. Government had informed Audit (January, 1975) that some representations had been received from textile exporters who were served with notices of recovery/adjustment of export benefits and that 'various issues of law and equity have been raised in these representations, which call for detailed and careful examination with the Ministry of Law' which exercise was being carried out. When the Committee drew attention to this statement and desired to know the present position in this regard, the representative of the Law Ministry stated:

"No reference was made to me."

In this context, the Commerce Secretary stated:

"Since the note was written we gave special attention to this matter and since we took a decision to recover all these things across the Board for all Industries, I do not think it is necessary now to refer to the Ministry of Law."

He added:

"In this case, the Law Ministry has not been brought in at all. Government's policy directive has been clear. We

ultimately decided that we should not go to the Law Ministry at all on this point. The policy has been announced and we must stick to it."

1.84. The Audit paragraph also brings out besides import replenishment, Government had also paid about Rs. 57 lakhs, between April, 1968 and May, 1970, to the Indian Cotton Mills Federation for payment of cash assistance on these exports against export obligations upto March, 1969. Asked the reasons therefor, the Commerce Secretary replied:

"This was an export promotion fund of the ICMF. This is not a government fund but Government contributes to this fund by a small percentage and this was used for giving cash assistance by the ICMF to exporters. This was not a Government's own fund but this is an ICMF fund."

When the Committee pointed out that this appeared to be another instance of a condominium between the Government of India and the ICMF's sovereignty, the witness replied:

"I must submit that it is not a condominium. It is true that they have built up this export promotion fund in order to ensure more exports and they were collecting this fund mostly."

1.85. Since this benefit was apparently unintended, the Committee asked how this had been allowed. The Commerce Secretary replied:

"That was certainly a very bad business. There is no doubt about it."

1.86. Asked how this amount had been paid to the ICMF even though according to the policy decision taken by Government, no benefits were to be available on exports made in discharge of export obligation prior to 1 April, 1969, the Commerce Secretary replied:

"The decision of the Government came in November, 1969 and it was made applicable from April, 1969. This payment which is being mentioned was upto March, 1969 and this payment was not made by Government. We were required to recover whatever incentives had been given wrongly or improperly if they had been made by Government, but this was not a payment by Government.

This was a payment for export promotion purposes by the ICMF. It is true that a contribution to the ICMF export promotion fund was made by Government."

When the Committee pointed out that the amount of Rs. 57 lakhs had been advanced from the Consolidated Fund of India, the witness replied:

"They did not advance, they contributed."

The representative of the Finance Ministry stated in this connection:

"From 1st April, 1968, a system of cash contribution from the Government to ICMF was started at the rate of 5 per cent on the FOB value of export to neutralise the effects of the non-refundable and other local taxes which made them non-competitive in the world markets. It was only for that purpose. Some of the exports which were included in the total exports might have been from the mills which had export obligations also."

1.87. In view of the fact that some aspects of the relationship between Government and the Indian Cotton Mills Federation appeared to be somewhat doubtful and even undesirable, the Committee desired to know whether Government got any *quid pro quo* from the Federation for the advantages which they obtained from public funds and whether their support and co-operation were readily available for disciplining the industry and its defaulters. The representative of the Commerce Ministry stated:

"We are dealing with the ICMF as a representational apex body of the cotton textile industry which I think in the circumstances of the case is inevitable because we do need to deal with one spokesman as it were for the industry. There are many points of difference and many a time we are also having to force down decisions on the ICMF. This sort of thing is happening. I would not say that they are not giving us co-operation at all. They are giving us co-operation in some respects. They have their own self-interest, undeniably so, and we have got sometimes to bring them back on track and discipline them. There are many points like that. I would not say it is entirely one way or the other."

1.88. Referring to the import replenishment of Rs. 5.42 crores, the Committee desired to know whether this particular investment

by Government had produced adequate results favourable to the country's balance of trade position. The Commerce Secretary stated:

"The import replenishment was given after the exports had been made, upto an extent of about 6½ per cent of the f.o.b. value of the exports already made. And the import was to be allowed, of course, in the form of dyes and chemicals. If we take this Rs. 5.42 crores as the import replenishment given, this forms only 6½ per cent."

1.89. An article by Shri Dalip Dastidar titled 'Cotton Textiles—Problems and remedies' which appeared in the 15 July, 1975 issue of 'Business Standard' points out that "According to an estimate, the cotton mills were allowed to import between 1961 and 1971 cotton worth Rs. 885 crores, machinery worth Rs. 261 crores and dyes and chemicals worth Rs. 240 crores, that is, the total amount of imports stood at Rs. 1,386 crores. On the other hand, during the same period (1961 to 1971) their exports were of the order of Rs. 695 crores only. So Rs. 691 crores in foreign exchange had to be spent by the Government for meeting various commitments of textile mills." Since this appeared to indicate that there was a net outflow of foreign exchange on this account, the Committee desired to know the net result of the imports and exports activity. The Ministry of Commerce furnished to the Committee statements indicating (i) details of year-wise exports of cotton textiles from India from 1961 onwards, (ii) total imports of cotton and of textile machinery and spares, (iii) imports of dyes and chemicals which were directly co-related to the textile industry and components from India since 1969-70 and (iv) exports of textile machinery and components from India since 1964, which are contained in Appendix IV.

1.90. The summarised position in this regard, furnished by the Ministry for the period 1969—74, is as follows:

(Rupees in crores)

	Imports	Exports
Cotton	426.27	Cotton Textiles 1026.44
Textiles machinery, Spares & components	81.86	Textile machinery and components 34.67
Dyes & chemicals	19.56	
TOTAL	527.69	1061.11

The Ministry added:

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“This shows that apart from such social and economic benefits like generation of employment, provision of clothing to the teeming millions of India, import substitution etc., there has been a net gain of Rs. 533.42 crores of foreign exchange during the last 5 years.”

1.91. The Committee note that though the policy laid down for the grant of Import Replenishment Licences for Registered Exporters against exports made in fulfilment of export obligations imposed on Capital Goods Licences stipulated that no benefits would be available on exports made in discharge of export obligations prior to 1 April 1969, import licences for Rs. 5.42 crores were issued upto April 1970 to exporters of cotton textiles for their export made against obligations upto March 1969. It would, therefore, appear that the implementation of the policy in this regard in the field has been woefully defective. The Committee would like to know why the policy had not been implemented and whether responsibility for the lapse has been fixed.

1.92. The Committee learn that the incentives irregularly granted would be recovered and that the representations to the contrary received from the industry in this regard have not been entertained. Since the amount involved in the irregular grant of incentives is large and considerable time has also already elapsed since these incentives were allowed incorrectly, the Committee call for urgent steps to effect recoveries on the basis of a time-bound programme and would like to be informed of the progress made in this regard so far.

1.93. Since the policy is applicable to all industries, the Committee would like to be fully reassured that there has been no similar instance in respect of the replenishment licences granted to industries other than textiles. Noting the statement of the Commerce Ministry that the decision has been enforced in all other industries, the Committee still feel that there is need for a detailed review of all past transactions relating to replenishment licences of Rs. 5 lakhs and above to industries other than textiles, with a view to ensuring that adequate action has, in fact, been initiated in all such cases. The total value of the replenishment licences irregularly granted and the progress made in effecting recoveries should also be intimated to the Committee.

1.94. The Committee are concerned to find that besides import replenishments incorrectly allowed on exports made against export obligations upto March 1969, Government had also paid, between April 1968 and May 1970, about Rs. 57 lakhs out of the Consolidated Fund of India, to the Indian Cotton Mills Federation for payment of cash assistance for such exports of textiles against export obligations upto March 1969. Though it has been contended that this assistance had been paid to the industry not by Government but by the Federation out of its export promotion fund to which contributions were made by Government, it has been admitted by the representative of the Finance Ministry during evidence that some of the exports which were included in the total exports for which cash assistance had been paid by the Federation might have been made by mills which had export obligations also. It is, therefore, evident, that an unintended benefit which is not in accordance with Government's policy, has been made available to such mills. The Committee would ask Government to explore the possibility of recovering, on a pro-rata basis, its share of the incentives irregularly allowed on exports against export obligations upto March 1969.

1.95. The various lacunae and deficiencies in the procedures evolved for giving effect to Government policies in regard to export promotion, which have been discussed in the preceding paragraphs, bring into sharp focus the need for concurrent monitoring to see that policies were, in fact, being implemented and the desired results achieved at least to a reasonable extent and without loss of time.

1.96. The discussion also brings out the need for working out in precise detail the various components of the policy. For instance, no unintended benefit should be given away, as had happened in the issue of import entitlement to textile units which were under an imperative obligation to effect the prescribed quota of exports when they were allowed the facility of importing textile machinery.

1.97. The responsibility for correctly administering the policy should be clearly defined, as far as possible, so that accountability can be enforced in the event of a 'malafide' or arbitrary implementation which results in substantial loss to the exchequer.

1.98. The Committee feel that the data-processing machines and computers, already available with the Government Departments, can be put to meaningful use in administering economic poli-

cies. First, the information system should be such as to bring to the notice of Government whether the incentives including import entitlement, drawbacks, cash grants, etc. which are being given from public funds were actually achieving the desired increase in exports of non-traditional products or exports to new areas, or whether these were being exploited by the trade and industry to add to their profits at the expense of the public exchequer.

1.99 Secondly, there should be a systematic record of the obligations which are undertaken by the licensees who import machinery, equipment, etc. in order to make sure that they discharge these obligations faithfully and in time. It should be possible to monitor their performance and follow it up systematically in order to make sure that either the obligations were discharged in full or the penalties for default were strictly enforced.

1.100 The Committee would also like to point out that Government have recently devolved the responsibility of maintenance of accounts, etc. on the Departments. It is, therefore, all the more necessary that the Departments should put to effective use all the modalities as well as the information and reporting devices that they can muster in order to make the units in the private sector particularly, the more substantial ones, realise that they have got to discharge faithfully the obligations imposed on them by Government in the larger public interest.

NEW DELHI;

H. N. MUKERJEE,
Chairman,

April 28, 1976

Public Accounts Committee.

Vaisakha 8, 1898 (Saka).

APPENDIX I

(vide Paragraph 1.30)

Statement showing latest position in regard to fulfilment of export obligations etc. by 19 Importers referred to in the Audit paragraph.

- (1) Total export obligations Rs. 5,54,370 lakhs
- (2) Actual export against these obligations Rs. 5.62 lakhs.
- (3) Reasons for default and action taken in each case so far. The party as fulfilled the export obligation
- (2) *Bangalore Cotton & Woollen and Silk Mills Bangalore :*
- (1) Total export obligations 15 lakh metres
- (2) Actual export against these obligations. 38.70 lakh metres.
- (3) Reasons for default and action taken in each case so far. The mills have fulfilled their export obligations.
- (3) *Hitex Embroidery Private Limited :*
- (1) Total export obligation Rs. 30.95 lakhs.
- (2) Actual export against these obligations. Rs. 30.68 lakhs.
- (3) Reasons for default and action taken in each case. The mills have paid the penalty amount of Rs. 26,863.70.
- (4) *Orissa Textiles Mills Cuttack :*
- (1) Total export obligation : 12.69 lakh metres per year for five years.
- (2) Actual export against these export obligations: January 1973 to June 1974 9.3 lakh metres.
- (3) Reasons for default and action taken in each case so far. The mill which was sanctioned the import of 500 looms, actually has so far imported only 96 looms. The time limit for fulfilment of export obligation will continue upto 1977. The mill have been asked to furnish evidences of further exports.
- (5) *Mafatlal Fine Spinning and Manufacturing Co. Ltd. :*
- (1) Export obligation Rs. 21 lakh screen printed fabrics and Rs.150 lakhs other textiles both per year for three years from 23-1-73 to 2-1-76.

- (2) Actual export against these obligations. Rs. 14,430.54 screen printed cloth from 28-1-73 to 27-1-74 and 269 lakhs other textiles in 1973.
- (3) Reasons for default and action taken in each case so far. The time limit for fulfilment of export obligation is still continuing upto January 1976. The mills have been asked to furnish full evidence of their further exports from 28-1-74 onwards.
- (6) *Ahmedabad Manufacturing & Calico Printing Co. Ltd. Ahmedabad.*
- (1) Total export obligations: Rs. 17.61 lakhs screen printing cloth & Rs. 268 lakhs other textiles per year for 3 years from 11-11-1972 to 10-11-1975.
- (2) Actual export against these obligations. Rs. 24.10 lakhs screen printed cloth Nov. 1972 to Nov. 1973 and Rs. 10.52 crores other textiles 1972-73 to 1973-74.
- (3) Reasons for default and action taken against each case so far. The time limit for fulfilment of export obligation is still continuing to January, 1976. The mill has been asked to furnish evidence of their exports from 28-1-1974 onwards.
- (7) *Lakshmi Ratan Cotton Mills, Kanpur*
- (1) Total export obligations. 61.98 lakhs yards for 96 auto looms or 24 lakhs yards for 36 looms.
- (2) Actual exports against these obligations: 42.25 lakhs yards.
- (3) Reasons for default and action taken in each of the case so far. The mill installed 36 looms only out of 96 granted to them. On *pro-rata* basis the party has discharged its export obligations. The case has, therefore, been treated a closed.
- (8) *M/S Universal Export & Import Agency*
- (1) Total export obligation: Rs. 3.80 lakhs.
- (2) Actual exports against these obligations. —
- (3) Reasons for default and action taken in each case so far. Machine was defective and idle and not capable of producing exportable cloth. Notice for payment of penalty of Rs. 26,836/- was issued to party for non-fulfilment of E.O. The Law Ministry advised that the case for recovery of E.O. was weak. Ministry decided to close the case.
- (9) *M/s. Todi Industries Pvt. Ltd. Bombay*
- (1) Total export obligation Rs. 2.56 lakhs.
- (2) Actual export against these obligations. Rs. 2.49 lakhs.
- (3) Reasons for default and action taken in each case so far. Non-submission of bank certificates of receipt of foreign exchange in Indian time. The mill has paid the penalty of Rs. 7008/- 2-10-74.

(10) *Promod Woollen & Silk Industries Ltd. Bombay :*

- (1) Total Export obligation . . . Rs. 6.50 lakhs.
 (2) Actual export against these obligations. Rs. 1.77 lakhs.
 (3) Reasons for default and action taken in each case so far.

The party was given extension upto 30-9-72 and were asked to furnish evidences of their exports effected during the said extended period. The party has since submitted all evidences (including bond certificates of the realisation of foreign exchange in India of the exports) of their exports of fabrics valued at Rs. 763825.60 effected during 1-4-69 upto 12-2-72 against their export obligations of Rs. 6,50,207.25 P.

The Textile Commissioner is satisfied that the party has cleared their export obligations and they are being released from the bond.

(11) *New Commercial Mills, Ahmedabad :*

- (1) Total export obligation : Rs. 32.77 lakhs.
 (2) Actual export against these obligations No. export reported.
 (3) Reasons for default and action taken in each case so far

Notice for payment of penalty was issued on 11.8.1970. The party filed petition on the ground that as the management has changed, recovery proceedings against it may not be complied with. The case came up for hearing on 17-1-73 and again in April 1975. On both these occasions the case was adjourned on the request of the mill's counsel.

(12) *Mysore Spinning & Weaving Mills Ltd., Bangalore :-*

- (1) Total export obligation . . . 117 lakh yards.
 (2) Actual export against these obligations. 96.63 lakh yards.
 (3) Reasons for default and action taken in each case so far.

The mill claimed fulfilment of export obligation on the plea that obligations should be worked out for the number of looms actually worked between 66—70. The Law Ministry found this argument of the mill as valid. The mill was taken over by N.T.C. in October 1971 and the Government in November 1974 decided that exports already made were sufficient for the release of bond.

(13) *Bengal Fine Spinning & Weaving Mill Ltd. Calcutta.*

- (1) Total export obligation 31.99 lakh yards
 (2) Actual export against these obligations. 24.41 lakh yards.
 (3) Reasons for default and action taken in each case so far.

No export obligation bond was obtained. Mill went into production with 48 looms only while the industrial licence granted was for 190 looms. It was tried to get the new bond but the mill avoided. The mill

was closed in March 1970 and has been taken over by NTC in 1972. The Ministry decided that the former management had fulfilled 75 per cent export obligation and the case may be closed. However, the authorised controller has promised to take steps to fulfil voluntarily the balance obligation.

(14) *Elphinstone Spinning & Weaving Mill, Bombay.*

- | | |
|---|---|
| (1) Total export obligation | 145.08 lakh yards. |
| (2) Actual export against these obligations | 167.87 lakh yards. |
| (3) Reasons for default and action taken in each case so far. | The mill has fulfilled the export obligation. |

(15) *Mirsdan Weaving Mills, Ahmedabad :*

- | | |
|---|--|
| (1) Export obligation. | 128.29 lakh yards. |
| (2) Actual export against these obligations. | 22.92 lakhs yards. |
| (3) Reasons for default and action taken in each case so far. | A notice for recovery of penalty was sent to the mill on 27-5-69 which they did not comply with. Govt. has decided to file a civil suit against the mill to recover the penalty. Textile Commissioner has asked Rs. 15,000 for stamp paper cost. Sanction is being issued. |

(16) *Mahandra Mills Ltd. Kalol :*

- | | |
|---|---|
| (1) Total export obligation. | 304.08 metres. |
| (2) Actual export against these obligations. | 7.44 lakh metres. |
| (3) Reasons for default and action taken in each case so far. | A notice was issued to the mill on 20-2-70. It has been decided to file a civil suit against the mill for the recovery of the penalty. Sanction for Rs. 15,000 on account of cost of stamp paper is being issued by the Ministry. |

(17) *Jagajit Cotton Textiles Mills Paghwara :*

- | | |
|---|--|
| (1) Total export obligation | 268.87 lakh metres. |
| (2) Actual export against these obligations. | 72.68 lakh metres. |
| (3) Reasons for default and action taken in each case so far. | A notice for recovery of penalty was issued on 13-7-71. Details of exports since 1970 are not available. It has been decided to file a civil suit against the Mill. Sanction for Rs. 15,000 on account of cost of stamp paper is being issued by the Ministry. |

(18) *M/S. Arthur Imports and Exports Company :*

- | | |
|--|---|
| (1) Total export obligation. | 10 lakhs waste per year for 3 years from the date of working of all spindles. |
| (2) Actual export against these obligations. | Nil. |

(3) Reasons for default and action taken in each case so far.

The mill has imported only 2500 spindles out of 5,000 spindles granted to them. The opinion of the Law Ministry has been sought as how to proceed against the party. The opinion earlier given by Law Ministry was that since the party has not installed and commenced production on all the 5000 spindles, no action can be taken against them in terms of the bond. A second opinion has been sought.

(19) *Kishan Chand & Co. India Ltd., Bombay:*

The party was given a licence dated 27-1-63 for installation of 48 automatic looms for the manufacture of cotton corduroy and velveteen subject to the conditions (i) no import of raw material for the manufacture of items in question would be allowed; (ii) 60% of production on these looms shall be exported.

The Mills had asked for import of certain processing and finishing machinery which Government could not sanction on account of indigenous availability of textile machinery. The party thereupon approached Government for permission to utilise the looms already imported for production of ternene suiting and also regularisation of their activity by the grant of an industrial licence. This was acceded to by Government on the basis of 60% of export obligation. The Textile Commissioner has been told to explore the possibilities of the party fulfilling their export obligation if extension of time is granted to them.

APPENDIX II

(Vide paragraph 1.59)

Copy of export bond entered into by Mill "E" and copies of notes exchanged between the Ministries of Commerce, Industrial Development and Law.

BOND NO. B.S. I./97

Know all men by these presents

That we (1) S. N. Puri and (2) R. Khanna partners of the firm of Messrs Arthur Import Export Co., Bombay carrying on business of yarns etc., at Bombay, hereinafter called the 'Owners' (which expression shall mean and include our respective heirs, executors, administrators and assigns), are firmly and jointly and severally bound unto the President of India (hereinafter called the 'the Government') in the sum of Rs. 10,00,000 (Rupees ten lakhs only) to be paid to the Government for which payment well and truly to be made, we, the owners bind ourselves and each of us jointly and severally and our heirs, executors, administrators and assigns firmly by these presents.

Dated this 5th day of September of the year one thousand nine hundred and sixty four.

WHEREAS the owners applied to the Government in the late Ministry of Commerce and Industry for permission to establish a new industrial undertaking at Bombay for the manufacture of mixed Waste yarn.

AND WHEREAS the Government has permitted the establishment of the said industrial undertaking by the owners, *vide* licence No. L|23|5|N|-196|60 dated 28-3-1960 issued under the provision of Industries (D&R) Act, 1951. Now the condition of the above written bond is such that if the owners shall—

- (a) from the date the industrial undertaking is established export either mixed waste yarn or cloth made out of mixed waste yarn to the extent of Rs. 10 (Ten) lakhs per annum for a period of 3 years to foreign countries excluding Nepal, Tibet, Sikkim and Bhutan.

(b) procure or deliver or cause to be procured or delivered to the Government or to such officer as it may direct within one month from the date of expiry of the period of first, second and third years, evidence to the satisfaction of the Government or such officer to prove that mixed waste yarn or cloth made out of the mixed waste yarn of the value equal to Rs. 10,00,000 (Rupees Ten Lakhs) has been actually exported per annum for a period of 3 years as aforesaid and also evidence such as bills of lading, invoices, bank certificates, etc., showing that the rupee equivalent of the foreign exchange received in payment of the F.O.B. value of the goods exported pursuant to the aforesaid agreement is not less than Rs. 10 lakhs per annum for a period of three years or if the owners shall in lieu of the delivery of the aforesaid evidence and documents to the Government or such Officer, pay or cause to be paid to the Government or such officer the said sum of Rs. 10 lakhs (Rupees ten lakhs) then the above written bond shall be void and of no effect. Otherwise the bond will be and remain in full force and virtue.

And it is further declared that this bond is entered into under the orders of the Central Government for the performance of an Act in which the Public are interested.

And it is agreed and declared that the payment of the amount of the bond will not affect the liability of the owners to any punishment provided by law or to any other action (including refusal of further licences) that may be taken under the provisions of Industrial (D&R) Act, 1951.

2. And it is hereby agreed and declared that the stamp duty on this bond shall be borne and paid by the Government.

In WITNESS WHEREOF the parties hereto have duly executed these present on the 5th day of September, 1964.

Signed and sealed and delivered by the within named.

(1) Shri S. N. Puri

(2) Shri R. Khanna

In the presence of

(1) Sd/-

(2) Sd/-

Bombay 5-9-1964.

Sd/-

for Messrs Arthur Import

Export, Bombay

(to be signed by all the parties)
Accepted for and on behalf of
the President of India.

Sd/- I. R. Kakar,

3-11-1964.

Under Secretary to the Govt.
of India.

P.F. ASB|8|F|28|A9-62

Messrs. Arthur Import and Export, Bombay, was given an Industrial Licence No. L|23|5|N-196|60 dated the 28th March 1960. Condition (9) of the licence prescribes that the concern will export finished products i.e., either cloth or yarn or cloth made out of waste yarn for a period of three years to the extent of Rs. 10 lakhs per annum. In order to see that the condition is enforced, I suggested to the party that he gives a bond. He has agreed to this but not to a bank guarantee. Instead, he has agreed to give a personal guarantee. I believe we have no bond in our office or a personal guarantee. Could US(K) kindly contact the Law Ministry and get a personal guarantee form today immediately. This is important because such a guarantee may have to be resorted to in the case of exporting mills. The matter is urgent.

Sd/-

N. SWAMI,

Jt. Tx.C.

23-5-1963.

USK

The case was discussed with Shri Masurkar, S.O. Law Ministry, over the phone on 24-5-1963. He explained that there is no particular form for personal guarantee and it has to be prepared in each case on the basis of the terms and conditions agreed to by the parties concerned. He suggested that the file may be referred to Law Ministry with a draft bond for vetting.

2. Accordingly, a draft bond on the basis of the bond taken against importation of machinery wherein the amount of the bond is equivalent to the value of the annual export obligation, which in the pre-

sent case comes to Rs. 10,00,000, has been prepared *vide* Flag 'X'. Before however, the draft is referred to the Law Ministry, the following points need consideration/clarification, *viz*:—

- (i) In the absence of a bank guarantee, Government can recover the amount only from the property of the firm and if it becomes insolvent, it may not be possible to recover the full amount.

The party is probably reluctant to furnish bank's guarantee because of security deposit or commission charges that it may have to pay to bank. If however, the party is agreeable to furnish any other solvent surety, it will provide additional security to Government. In case they are unable to furnish surety for such a large amount (Rs. 10,00,000) they might be persuaded to give an undertaking in the bond that they would not dispose of their immovable property to be specified in a schedule, without prior consent of the Government. In this case, disposal of the property without permission of the Government will itself constitute a breach of bond and will render the firm liable for legal action. If the party is agreeable to any one of the aforementioned alternatives, a suitable provision could be included in the bond in consultation with the Ministry of Law, after obtaining from the firm the particulars of the surety or property as the case may be.

- (ii) Usually, where a person is required to export a certain quantity of cloth per annum for a period of 3 years, the value of the bond, which in this case is equal to the value of the export obligation for 1 year, is reduced by $\frac{1}{3}$ rd every year on production of evidence by the party regarding fulfilment of the annual export obligation. In the present case, assuming that the party had established the undertaking within 1 year from the issue of licence, two years have already lapsed and we do not know whether and what quantity he has exported so far.

In this connection, it may be pointed out that according to the terms of the bond if the annual target is not fulfilled, the party will not be entitled to redemption for that year, since there is no provision for adjustment of deficiency in one year against excess of exports in another year. It is, however, doubtful whether the firm will agree to accept liability for payment of Rs. 6.67 lakhs if there has been a shortfall in its exports during the preceding two years. Further, imposition of a penalty of Rs. 3.33 lakhs every year even for a small shortfall in exports would be unreasonable. Since the liabi-

lity of the party is limited to 1/3rd of the total exports (*viz.*, Rs. 10 lakhs for total exports of Rs. 30 lakhs over a period of 3 years), the penalty should fairly be restricted to 1/3rd of the shortfall in export. It is, therefore, suggested that in his case, it may be provided in the bond that if at the end of 3 years from the establishment of the undertaking, the exports of yarn or cloth made out of waste yarn fall short of Rs. 30 lakhs, the party will be liable to pay to the Government a sum equivalent to 1/3rd of the deficiency in exports. If approved, suitable modifications will be made in the draft bond.

- (iii) Attention is invited to portion marked 'A' on page 2 of the bond to the effect that the bond is entered into under the orders of the Central Government for the performance of an act in which the public are interested. Generally, a similar provision is to be found in the licence itself and accordingly the Law Ministry have advised on another case that in view of a specific provision to this effect in the licence, it is not necessary to obtain separate orders of the Central Government. In the present case, however, there is no such clause in the licence. As the provision at 'A' of the bond is considered necessary by Law Ministry, who were consulted informally, the orders of the Central Government will have to be obtained for the purpose.

Sd/- I. R. KAKAR,
25-3-1963.

Jt. Tx. C. may please see S.O. (CONT) note—and the draft bond which will be got vetted by the Ministry of Law. This situation could have been avoided if the Section concerned had taken timely action to obtain the bond.

Sd/- I. R. KAKAR,
25-5-63.

Jt.Tx.C.

The draft seems to be all right. We need not introduce elaborate conditions regarding restrictions on disposal of immovable property.

Sd/- N. SWAMY,
26-5-63.

Bond Sectt.
(Control Section)

Ministry of Law may kindly see the notes from Page 1 *ante* and vet the draft bond placed below.

Sd/- I. R. KAKAR,
29-5-1963.

Ministry of Law (Bond Sectt) Bombay.

It is presumed that Messrs. Arthur Import and Export Co., Bombay, is a partnership firm. If that be so, it is desirable that the bond should be executed by all the partners of the said firm. The draft bond is approved, as altered by me in red ink.

2. The draft bond is on the footing that it is to be executed only by the owner. It is suggested that a mere bond by the owner himself would not be quite sufficient, and it is desirable to have the bond also executed by a surety. If the bond is also to be executed by a surety, the draft bond would require suitable modifications. If therefore, the suggestion is approved by the Department, then, the draft may be again sent back for making the suitable alterations therein so that the bond may be executed jointly by the owner and the surety.

Sd/- P. G. GOKHALE,

Additional Legal Adviser to the Govt. of India.

The Joint Textile Commissioner, Bombay.

Min. of Law, Bombay, U.O. No. 963/63-Adv. Bom. dated 4-6-63.

Branch Secretariat
(Textiles)
Control Section.

The Ministry of Law's advice above may please be seen by Jt. Tx. C. for orders as to whether the draft proforma bond may be got amended by the Law Ministry to provide for a surety also. Thereafter Art Silk Branch may take action to obtain the orders of the Central Government as suggested in para 2 (iii) of SO(M), note dated 25-5-63 at p 2/N *ante* unless such orders already exist but no bond was obtained due to oversight. If so, these orders may please be shown to us and the bond may be obtained from the party and sent to us for acceptance by US(K).

Sd/- I. R. KAKAR,
5-6-63.

Please see your orders. As the condition of a bond and bank guarantee has not been specifically laid down in terms of the industrial licence, it has not been possible to get the party to agree. He has, however, agreed to a personal undertaking. This may perhaps be adequate especially when we are thinking on these lines in regard to export-oriented mills. In the circumstances if approved, Arthur Import would be asked to execute a bond as per draft furnished by Law Ministry.

Sd/- N. SWAMY,

Jt. Tx.C.

10-6-63.

Tx.C.

Sd/- DORAISAMY,

14-6-63.

APPENDIX III

(Vide paragraph 1.79)

(COPY)

ANNEXURE—III

CONFIDENTIAL

GOVERNMENT OF INDIA

MINISTRY OF FOREIGN TRADE

Office of the Chief Controller of Imports
and Exports.

General Licensing Instruction No. 36/70

New Delhi, the 30th May, 1970.

SUBJECT.—*Grant of replenishment licences under the import policy for Registered Exporters against exports made in fulfilment of export obligations imposed on C. G. Licences.*

Attention is invited to para 8 on part 'A' of Section 1 of the Red Book (Vol. III) for the period April, 1970—March, 1971 which provides that exports made with effect from 1st April, 1970 on discharge of export obligation imposed on C.G. Licences will be eligible for the grant of import replenishment licences in accordance with the provisions contained in the import policy for Registered Exporters. In view of this, application for import replenishment licences based on exports made on or after 1st April, 1970 may be considered by the licensing authorities in the normal course, whether or not such exports have been made in discharge of an export obligation imposed on a C.G. Licence.

2. It has further been decided that the aforesaid provision in regard to the grant of import replenishment licences under the import policy for Registered Exporters will also apply to the exports effected on or after 1st April, 1969 in discharge of an export obligation imposed on a C.G. Licence. In these cases, the rate of import replenishment will be the same as that applicable at the time of export, whereas the items to be allowed for import will be those as permissible at the time of issue of the licence and subject to such conditions and restrictions as may then be in force.

3. In the types of cases referred to in paragraph 2 above, the licensing authorities should take the following action in respect

of exports made on or after the 1st April, 1969 but before the 1st April, 1970:—

- (a) In the case of parties who have already applied for import licences, and whose applications are pending, such applications may be disposed of on merits under the import policy for registered exporters, if otherwise admissible.
- (b) Parties which have not made applications in the relevant periods as they were not entitled to the licences at that time, may be allowed to make their applications now, for which purpose they may be given a time limit of three months. For this purpose, the licensing authorities concerned should send particulars of the parties to the Export Promotion Councils concerned requesting them to advise the parties to make applications for *ex-gratia* licences within three months.
- (c) Applications already made by such parties but rejected as they were not eligible to the licences at that time, may be re-opened by the licensing authorities on representations received from the parties. The particulars of such parties may also be communicated by the licensing authorities to the Export Promotion Councils, requesting them to advise the parties to make representations within a period of one month.
- (d) In some cases, the licensing authorities may have issued import licences against such exports by mistake, but the value of licences issued may have been adjusted subsequently as soon as the mistake was detected. In those cases also, the licensing authorities should re-issue licences to the parties for the amounts so adjusted and due to them, but for the items permissible at the time of re-issuing the licence.
- (e) In these cases, the licences issued should be marked "Ex-gratia". Also, in the covering letter with which the licence is sent to the party, it may be stated that "the licence has been issued *ex-gratia* as a measure of export promotion."
- (f) In some cases, the licensing authorities may have forfeited the bonds, either wholly or partially, where the parties had obtained import licences against exports made on or after 1st April, 1969, in discharge of the export obligation. The particulars of such cases includ-

ing the bond amount forfeited may be sent to the Headquarters (Export Obligation Cell) by the 30th June, 1970. The forfeited amount should not however be refunded pending further instructions.

- (g) If, in the types of cases referred to in sub-para (a), (b) and (c) above, the party is unable to produce the required export documents, the case may be referred to Headquarters (Export Obligation Cell) for instructions, instead of rejecting it as incomplete.

4. No benefits will be available on exports made in discharge of export obligation before 1st April, 1969. Therefore, if any licences have been issued against such exports, their value would need to be adjusted against the import licences due to the party. Such cases should be referred with full particulars, to Headquarters (Export Obligation Cell) for instructions, before issuing any licences to the party even against their exports made on or after 1st April, 1969.

5. While considering applications for import licences under this GLI, the licensing authorities are not required to determine whether or not the party has fulfilled the export obligation, or whether the period fixed for discharge of the export obligation has expired or not. The intention is to give the normal import benefits in those cases under the import policy for Registered Exporters, irrespective of the consideration that these exports have been made in discharge of an export obligation. If the party eventually fails to discharge the export obligations according to the norm laid down, action for such failure will be taken separately under the relevant rules.

6. If in a case covered by this GLI, the period of export obligation including the extension, if any, granted has expired, and the license has failed to discharge the entire export obligation within the stipulated period, the licensing authorities should refer the case to the Headquarters (Export Obligation Cell) for instructions, in the manner laid down in GLI 14/70 dated the 19th February, 1970, before issuing licences to the party.

7. If the licensing authorities have to seek clarifications on certain points in regard to those cases, they may refer the matter to the Headquarters Office (Export Obligation Cell).

Sd/- S. VENKATESAN,

Chief Controller of Imports and Exports.

(Issued from file No. 10/92/68-O&M)

APPENDIX IV (i)

(Vide Paragraph 1.89)

Year-wise Export of cotton textiles from India from 1963 to 1974. (In rupees crores)

Item	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974
1. Millmade Cotton cloth	41.02	48.86	47.26	49.14	59.37	66.77	63.09	65.66	66.60	81.09	137.58	153.29
2. Cotton Yarn	6.19	5.88	6.02	8.69	7.48	10.69	23.74	26.88	12.88	22.74	13.08	19.39
3. Hosiery	0.10	0.12	0.29	0.17	0.14	0.22	0.25	0.26	0.38	0.88	1.75	5.28
4. Apparel	2.54	2.17	3.28	2.55	2.46	3.03	4.37	7.74	11.77	24.82	47.64	92.07
5. Other cotton Mfg. including made-up items	5.68	5.84	6.88	10.06	12.76	14.61	13.74	15.76	13.79	20.56	26.31	48.92
6. Handloom cloth	7.72	7.73	9.53	6.73	6.84	4.59	7.15	7.42	9.18	14.77	26.47	33.23
7. Handloom cotton Manufactures	2.12	1.84	3.04	1.67	1.85	3.58	4.16	4.98	6.45	6.88	7.88	14.28
8. Powerloom cloth	0.10	0.28	0.16	0.08	0.96	0.30	0.42	0.61	0.78	1.30	3.72	3.63
Other powerloom Manufacture	0.16	0.08	0.25	0.60	2.55	0.67	0.57	0.63	0.90	1.97
Total—Foreign Exchange Earnings	65.47	72.77	76.62	79.17	91.40	104.39	117.47	130.18	126.34	173.67	265.33	372.06

NOTE :—Figures from June, 1966 onwards are in terms of devalued rupee and have not comparable with figures for pre-devaluation period (R) Revised.]

APPENDIX IV (ii)
(Vide Paragraph 1·89)

IMPORTS OF FOREIGN COTTON

Year ending 31·8 :	Quantity (Lakh bales of of 180 Kgs.	Value Rs. Crores
1960-61	11·00	69·02
1961-62	8·08	53·70
1962-63	8·61	56·46
1963-64	6·48	45·69
1964-65	9·28	62·99
1965-66*	5·26	40·07
1966-67	7·82	88·54
1967-68	7·78	86·16
1968-69	4·29	58·93
1969-70	9·10	112·48
1970-71	8·59	109·85
1971-72	7·46	101·74
1972-73	4·42	64·90
1973-74	1·78	37·30

IMPORT OF TEXTILE MACHINERY AND ACCESSORIES

(Million rupees)

Year	Machinery	Spare and accessories	Total
1960-61	82·45	149·67	232·12
1961-62	90·70	175·17	265·87
1962-63	95·74	168·20	263·94
1963-64	91·45	155·15	246·60
1964-65	100·31	175·39	275·70
1965-66	162·00	122·23	284·23
1966-67	164·00	140·47	304·47
1967-68	141·25	137·24	278·49
1968-69	61·11	96·64	157·75
1969-70	36·35	61·30	97·65
1970-71	33·46	55·55	89·01
1971-72	21·86	104·83	126·69
1972-73	29·92	124·18	164·10

*Value figures from June 1966 onwards are in terms of devalued rupee and hence not comparable with figures for pre-devaluation period.

APPENDIX IV (iii)

(Vide Paragraph 1.89)

Import of Dyes during the year 1969-70 to 1973-74

Name of the Item	Qty. in Kg. Value in Rs.									
	1969-70		1970-71		1971-72		1972-73		1973-74	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1. Acid dyes	117489	2970399	123652	403386	59108	2403573	85258		75148	4729355
2. Basic dyes	20046	979904	37140		57390	1873314	63490	3376574	54948	3763372
3. Direct Dyes & Sulphur dyes	110612	2464557	106542	250886	141010	2590511	115858	2757673	91154	3029457
4. Disperse dyes	107543	4226189	180685	8096243	112081	4883380	37113	4625480	96245	5322876
5. Lakes Solvant Dyes Organic Pigment Dyes	19259	1140081	24304	1615119	58915	3026317	45401	2709861	93828	5312406
6. Mondant Dyes	12018	310788	10329	2677474	22167	575418	11309	377706	4540	161779
7. Reactive dyes Azoic Dyes	136099	5364101	237317	9365858	192505	8032535	98849	4681615	98908	4738235
8. Vt Dyes	145588	8076355	185623	13022570	188844	11791105	17649	7665813	168919	7718732
9. Other Organic synthetic dyes	109511	2269396	49254	1273859	67914	1768976	53110	1827726	72405	2908980
TOTAL	778265	27801770	955846	41647208	899934	36945129	598613	32368112	756105	37685192

APPENDIX IV (iv)

(Vide Paragraph 1·89)

Foreign Trade Exports and Imports Textile machinery

(Rs. in Millions)

Year	EXPORTS			IMPORTS		
	Machinery	Spares & Accessories	Total	Machinery	Spares & Accessories	Total
1964-65 . . .	0·111	3·317	3·428	100·308	175·393	275·701
1965-66 . . .	0·995	1·406	2·401	162·091	122·231	284·232
1966-67 . . .	0·855	2·885	3·740	163·996	140·469	304·465
1967-68 . . .	1·957	5·641	7·598	141·253	137·241	278·494
1968-69 . . .	5·457	10·791	16·248	61·118	96·640	157·752
1969-70 . . .	34·604	22·591	57·195	36·350	61·298	97·648
1970-71 . . .	35·333	35·852	71·185	33·455	55·548	89·003
1971-72 . . .	31·309	16·850	48·159	21·363	104·826	126·689
1972-73 . . .	21·449	15·773	37·222	39·925	124·177	164·102
1973-74 . . .	16·513	25·552	42·065	54·563	116·135	170·698

APPENDIX V

Statement showing Conclusions|Recommendations

Sl. No.	Para No.	Ministry/ Deptt.	Conclusions/Recommendations
1	2	3	4
1	1-22	Commerce	<p>The Committee note that in spite of the progress achieved by the indigenous textile machinery industry since 1952, the country is still largely dependent on imports and that during the period 1960-61 to 1973-74, the value of imports of textile machinery, spares and accessories totalled Rs. 2957.31 millions. Though indigenous production has increased at what the Commerce Ministry describes as 'a fairly sharp rate' and brought about substantial import substitution, the Committee are worried over the wide gap still subsisting between the installed capacity of the indigenous industry and its actual production, a gap which ranged between 31.5 per cent and 41 per cent of the installed capacity during the period from 1969 to 1973-74. If the targets proposed in the Fifth Five Year Plan for the textile industry are to be achieved, the indigenous textile machinery industry must take concerted steps to discharge the heavy responsibility cast on it. Unless this industry is able to meet the growing needs of our textile manufacture, essential and long-overdue modernisation, rehabilitation and expansion will be badly hindered.</p>

1	2	3	4
2	I-23	Commerce	<p>Paucity of funds, inadequate assistance from financial institutions and the stagnation in the cotton textile industry have been cited as the primary reasons for the non-utilisation of the installed capacity to its optimum. The Committee understand that certain steps are being taken and more are under consideration by Government to meet the requirements of the textile machinery manufacturers. The Committee would urge Government to tackle the question on a priority basis. The Committee feel that had the capacity for the manufacture of textile machinery been developed on a realistic basis right from the inception, there would not have been this problem of gross-under-utilisation. In any case, the Committee stress that a realistic assessment should now be made and a perspective plan drawn up in consultation with the textile industry and the textile machinery manufacturers with a view to facilitating rationalisation and modernisation.</p>
3	I-24	-do-	<p>The Committee are seriously concerned to note that the machinery manufacturers, according to a study made by the World Bank, are producing machinery of "1950-60 vintage with little prospect of sustained long-term growth" and that only a few manufacturers accounting for only 25 to 30 per cent of the industry's output could be considered as "internationally competitive, quality and price-wise." This underlines the scope for improvement in quality and price of the machinery turned out by the</p>

textile machinery manufacturers. The Committee are of the view that there should be a strong Research and Development support given to the industry so that machinery design and manufacturing methods could be upgraded and the production made more competitive in quality and price. In the ultimate analysis, it is the quality, output and economics of the machine which would determine its acceptance by the textile industry and it is, therefore, in the interest of all involved in the industry that the quality of the machinery is improved at the earliest.

4 1.25 -do-

The Committee would, in particular, like the textile machinery manufacturers to take a special note of the increasing stress which is being laid on the manufacture of cloth of acceptable quality and at competitive rates for the general public, especially the weaker sections of society and like the textile machinery manufacturers to bring about the desired re-orientation in their manufacturing programmes with the help of R & D and in consultation with the textile mills.

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5 1.26 -do -

The Committee feel that the Government have also been remiss in the monitoring closely the development and utilisation of the capacity of textile machinery manufacturers, as otherwise things would not have come to this sorry pass. The Committee would like Government to rectify this deficiency without delay by keeping a close watch on the developments in the textile industry and correlating it with the capacity and utilisation of the textile machinery

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manufacturers so as to ensure that these twin sectors function in an integrated manner in the larger public interest.

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1970

Commerce

The Committee are concerned to note that 19 out of the 220 importers who had been granted between 1957 and 1969 licences for the import of textile machinery and spares had not, till December 1974, either discharged their export obligations or produced evidence of the exports claimed to have been made by them. While some of these cases have since been decided, three mills (Orissa Textile Mills, Mafatlal Fine Spinning & Weaving Co. Ltd. and Ahmedabad Manufacturing & Calico Printing Co. Ltd.) have been asked to furnish evidence in support of their further exports and action has been initiated to file civil suits for the recovery of the penalty for non-fulfilment of export obligations from three other mills (Mahendra Mills, Marsden Spinning & Weaving Mills Ltd. and Jagatjit Cotton Textile Mills). In one case, (Bengal Fine Spinning & Weaving Mills Ltd), the authorised controller of the mill, which was closed in March 1970 and was taken over by the National Textile Corporation in 1972, is stated to have promised to take steps to fulfil voluntarily the balance obligation of 7.58 lakh yards. Another case (New Commercial Mills) is stated to be pending before the High Court and is, therefore, *sub judice*. A total penalty of Rs. 80 lakhs remains still to be recovered. As many of these cases have now been pending finalisation for very long

periods, the Committee desire that immediate steps should be taken to finalise them.

7

I-71

-do-

The Committee are perturbed that even in cases of established default, Government took much time to invoke and enforce the provision for the levy of penalty in the bonds executed by the defaulting parties. For instance, in the case of Marsden Spinning & Weaving Mills Co. Ltd., the export obligation was to be discharged in a period of five years commencing from 1 April 1961. Its actual export performance, as against the obligation of 128.29 lakhs yards, was reported to be only 22.92 lakh yards; even for this figure, there is no documentary evidence. Yet, the demand notice for the recovery of penalty of Rs. 10.53 lakhs was issued only on 27 May 1969, after three years of the lapse. Seven more years have elapsed since then and the decision to file a civil suit for the recovery of the penalty is yet to be implemented. Again, in the case of New Commercial Mills, though the export obligation, valued at Rs. 32.77 lakhs, was to be discharged by December 1966, demand notice for the payment of penalty for not having effected any exports, was issued nearly four years later. Similarly, in the case of Kishanchand & Co., though the imported machinery had been commissioned in October 1967, and though it was also known to Government, 'soon after' the installation of the machinery, that the imported machinery was not capable of producing 'exportable quality cloth', notice for the penalty of Rs. 2 lakhs was issued some seven years later, in September 1974. In respect of Mahendra Mills

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and Jagatjit Cotton Textile Mills, notices for the recovery of penalties of Rs. 33.53 lakhs and Rs. 21.56 lakhs had been issued respectively on 20 February, 1970 and 13 July, 1971 and a decision to file civil suits against the mills was taken only in 1975.

8 1.72 Commerce

The Committee have, in this connection, been told of an official decision that before resorting to legal action necessarily involving expenditure of money and time, a period of no more than two to three years would be allowed to the defaulting mills to fulfil their export obligation. While the Committee might concede that there is some justification for this decision, they note that this decision was taken only recently in November 1974 after a review of the pending cases. This implies that prior to 1974, the action taken in this regard had been inadequate. The Commerce Secretary concedes that when a party is apparently incapable of performing his obligation there is no point in waiting indefinitely. The Committee would, therefore, require the reasons for the delay in issuing demand notices and in initiating legal proceedings, wherever called for, to be investigated in each case with a view to appropriate action.

9 1.73 -do-

It would also appear that apart from the bonds and bank or personal guarantees taken from the importers of textile machinery stipulating the performance of certain export obligations, there is no mechanism available with Government to take effective and

quick action against defaulters and that recourse has, therefore, to be necessarily had to legal action, in cases of default, which is often protracted and time-consuming. With a view to overcoming these legal and other difficulties, the Committee suggest that Government may take a bond, against a bank guarantee, from an applicant before granting the licence for a sufficiently high amount and in such terms which would make the amount forfeitable to the Government at its discretion in case there is failure on the part of the licensed unit to faithfully discharge the obligations attached to the licence.

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I.74

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Yet another aspect which complete attention is the lack of uniformity in the undertakings obtained from the importers for the fulfilment of export obligations. While bank guarantees had been obtained in some cases, only a personal guarantee had been obtained in the cases of Marsden Spinning & Weaving Mills Ltd. and Arthur Imports & Exports Company. Surprisingly, in one case (Bengal Fine Spinning & Weaving Mills Ltd.), no export obligation bond was obtained at all and unless the balance obligation is fulfilled voluntarily, as promised by the mills' authorised controller, the chances of enforcing the export obligation are uncertain. Again, while in the case of Lakshmi Ratan Cotton Mills and Mysore Spinning & Weaving Mills Ltd., discharge of the obligation on a *pro-rata* basis of the looms actually installed, had been provided for, an *impasse* has been reached in the case of Arthur Imports & Exports Company, where since only 2,500 spindles against the

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5,000 spindles for which licence had been issued have been imported and installed, the importers have taken the plea that they are not bound to fulfil their export obligation till all the 5,000 spindles are installed. There has, thus, been a recurring inconsistency in this regard which has often caused peculiar complications. The Committee, therefore, desire that the existing provisions for prescribing and enforcing export obligations should be reviewed in detail and streamlined. Clear-cut and uniform criteria which are enforceable should be laid down in this regard to prevent abuses.

The Committee, in particular, take an extremely serious view of the non-fulfilment of the export obligation by Arthur Imports & Exports Company on the ground that the obligation would arise only after all the 5,000 spindles, for which the industrial licence had been issued, are installed. What is even more deplorable in this unsavoury episode is that even the 2,500 spindles imported by the firm are yet to be commissioned and the valuable foreign exchange spent on the imports has remained unproductive. It is, therefore, evident that 'effective steps' have not been taken for well over 15 years, by the importers for establishing the industrial undertaking for which the licence had been issued and it is distressing that on account of legal hurdles, Government have been placed in a helpless and embarrassing position. Though the case

has been 'under examination' in the Commerce Ministry since 1965, no effective solution has yet been found to break the deadlock. The Committee have been informed in this connection that a second legal opinion has now been sought and would like to know what it is and what has been done. Since the Law Ministry appears to hold the view that an amendment to the Industries (Development & Regulation) Act would be necessary, the Committee desire that this should be examined quickly, in consultation with the Attorney General, and necessary action initiated.

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1-76

-do-

The reasons for the delay of over ten years for the 'examination' of the case by Government have also not been satisfactorily explained. The Committee would like a more specific clarification and the reasons why the delay could not be avoided. Having regard to the fact that this particular firm and its associates have earlier come in for adverse comments repeatedly by the Public Accounts Committee and also by the Central Bureau of Investigation, the Committee desire that the circumstances leading to the non-commissioning of the 2,500 imported spindles by the firm should be investigated in detail with a view to ascertaining if any *mala-fides* were involved. The Committee would await a specific report in this regard. ३

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Incidentally, the Committee's attention has been drawn to the refusal of Rayex India Ltd., a company floated by the Silk and Rayon Textiles Export Promotion Council, to lift four art-silk sizing

machines imported about a decade ago, on its behalf, by the State Trading Corporation at a cost of Rs. 43.19 lakhs plus customs duties amounting to Rs. 11.50 lakhs. The machines which had been imported to help in the export effort in synthetic textiles have so far failed to fulfil the objective and the State Trading Corporation which had under-written the purchase has been placed in an embarrassing predicament with unwanted machines on its hands on account of the default and dilatoriness of Rayex India Ltd. The Committee have been informed that legal advice has been sought for the recovery of the dues from the company and would like to know what has happened since. Early action should also be taken to dispose of the machines.

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The Committee note that though the policy laid down for the grant of Import Replenishment Licences for Registered Exporters against exports made in fulfilment of export obligations imposed on Capital Goods Licences stipulated that no benefits would be available on exports made in discharge of export obligations prior to 1st April 1969, import licences for Rs. 5.42 crores were issued upto April 1970 to exporters of cotton textiles for their exports made against obligations upto March 1969. It would, therefore, appear that the implementation of the policy in this regard in the field has been woefully defective. The Committee would like to know why the policy had not been implemented and whether responsibility for the lapse has been fixed.

15 1'92 -do-

The Committee learn that the incentives irregularly granted would be recovered and that the representations to the contrary received from the industry in this regard have not been entertained. Since the amount involved in the irregular grant of incentives is large and considerable time has also already elapsed since these incentives were allowed incorrectly, the Committee call for urgent steps to effect recoveries on the basis of a time-bound programme and would like to be informed of the progress made in this regard so far.

16 1'93 -do-

Since the policy is applicable to all industries, the Committee would like to be fully reassured that there has been no similar instance in respect of the replenishment licences granted to industries other than textiles. Noting the statement of the Commerce Ministry that the decision has been enforced in all other industries, the Committee still feel that there is need for a detailed review of all past transactions relating to replenishment licences of Rs. 5 lakhs and above to industries other than textiles, with a view to ensuring that adequate action has, in fact been initiated in all such cases. The total value of the replenishment licences irregularly granted and the progress made in effecting recoveries should also be intimated to the Committee.

17 1'94 -do-

The Committee are concerned to find that besides import replenishments incorrectly allowed on exports made against export obligations upto March 1969, Government had also paid, between April 1968 and May 1970, about Rs. 57 lakhs out of the Consolidated Fund of India, to the Indian Cotton Mills Federation for payment

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of cash assistance for such exports of textiles against export obligations upto March 1969. Though it has been contended that this assistance had been paid to the industry not by Government but by the Federation out of its export promotion fund to which contributions were made by Government, it has been admitted by the representative of the Finance Ministry during evidence that some of the exports which were included in the total exports for which cash assistance had been paid by the Federation might have been made by mills which had export obligations also. It is, therefore, evident that an unintended benefit which is not in accordance with Government's policy, has been made available to such mills. The Committee would ask Government to explore the possibility of recovering on a *pro-rata* basis, its share of the incentives irregularly allowed on exports against export obligations upto March 1969.

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The various lacunae and deficiencies in the procedures evolved for giving effect to Government policies in regard to export promotion, which have been discussed in the preceding paragraphs, bring into sharp focus the need for concurrent monitoring to see that policies were, in fact, being implemented and the desired results achieved at least to a reasonable extent and without loss of time.

19 1·96 -do-

The discussion also brings out the need for working out in precise detail the various components of the policy. For instance, no unintended benefit should be given away, as had happened in the issue of import entitlement to textile units which were under an imperative obligation to effect the prescribed quota of exports when they were allowed the facility of importing textile machinery.

20 1·97 -do-

The responsibility for correctly administering the policy should be clearly defined, as far as possible, so that accountability can be enforced in the event of a '*mala fide*' or arbitrary implementation which results in substantial loss to the exchequer.

21 1·98 -do-

The Committee feel that the data-processing machines and computers, already available with the Government Departments, can be put to meaningful use in administering economic policies. First, the information system should be such as to bring to the notice of Government whether the incentives including import entitlement, drawbacks, cash grants, etc. which are being given from public funds were actually achieving the desired increase in exports of non-traditional products or exports to new areas, or whether these were being exploited by the trade and industry to add to their profits at the expense of the public exchequer.

22 1·99 -do-

Secondly, there should be a systematic record of the obligations which are undertaken by the licensees who import machinery, equipment, etc. in order to make sure that they discharge these

1	2	3	4
23	1-100	Commerce	<p>obligations faithfully and in time. It should be possible to monitor their performance and follow it up systematically in order to make sure that either the obligations were discharged in full or the penalties for default were strictly enforced.</p> <p>The Committee would also like to point out that Government have recently devolved the responsibility of maintenance of accounts, etc. on the Departments. It is, therefore, all the more necessary that the Departments should put to effective use all the modalities as well as the information and reporting devices that they can muster in order to make the units in the private sector particularly, the more substantial ones, realise that they have got to discharge faithfully the obligations imposed on them by Government in the larger public interest.</p>

