

**PUBLIC ACCOUNTS COMMITTEE
(1977-78)**

(SIXTH LOK SABHA)

SIXTY-SIXTH REPORT

ILLEGAL IMPORT OF GOLD

DEPARTMENT OF REVENUE & BANKING

**[Action taken by Government on the recommendations
of the Public Accounts Committee contained in their
218th Report (Fifth Lok Sabha)]**



Presented in Lok Sabha on 12-4-1978

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COMMITTEE (SIXTH LOK SABHA).

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PUBLIC ACCOUNTS COMMITTEE

(1977-78)

Shri C. M. Stephen—*Chairman*

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6. Shri Asoke Krishna Dutt
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- ***21. Shri Bezawada Papireddi
- ***22. Shri Zawar Hussain.

*Elected with effect from 23 November, 1977 *vice* Sarvashri Sheo Narain and Jagdamb Prasad Yadav ceased to be Members of the Committee on their appointment as Ministers of State.

**Ceased to be Members of the Committee consequent on retirement from *Rajya Sabha* w.e.f. 2-4-1978.

***Ceased to be Members of the Committee consequent on retirement from *Rajya Sabha* w.e.f. 9-4-1978.

(iv)

SECRETARIAT

1. Shri B. K. Mukherjee—*Joint Secretary.*
2. Shri H. G. Paranjpe—*Chief Financial Committee Officer.*
3. Shri T. R. Ghai—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Sixty-sixth Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their Two Hundred and Eighteenth Report (Fifth Lok Sabha) on 'Illegal Import of Gold' relating to Ministry of Finance (Department of Revenue and Banking).

2. On 10th August, 1977, an 'Action Taken Sub-Committee' consisting of the following Members was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

1. Shri C. M. Stephen—*Chairman*
 2. Shri Asoke Krishna Dutt—*Convener*
 3. Shri Gauri Shankar Rai
 4. Shri Tulsidas Dasappa
 5. Shri Kanwar Lal Gupta
 6. Shri Zawar Hussain
 7. Shri Vasant Sathe.
- } *Members*

3. The Action Taken Sub-Committee of the Public Accounts Committee (1977-78) considered and adopted the Report at their sitting held on 20 March, 1978. The Report was finally adopted by the Public Accounts Committee (1977-78) on 11th April, 1978.

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

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

C. M. STEPHEN,
Chairman,
Public Accounts Committee.

NEW DELHI;
April 11, 1978.

Chaitra 21, 1900 (S).

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 218th Report (Fifth Lok Sabha) on paragraph 11 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes, relating to Customs on Illegal Import of Gold. The 218th Report was presented to the Lok Sabha on 29th April, 1976.

1.2. Action Taken Notes have been received from Government in respect of all the 26 recommendations/observations contained in the Report and these have been categorised as follows:—

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

Sl. Nos. 1, 2, 10, 11, 12, 14, 17, 22 and 23.

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

Sl. Nos. 3, 5, 6, 7, 9 and 13.

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

Sl. Nos. 4, 8, 15, 16, 18 and 19.

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

Sl. Nos. 20, 21, 24, 25 and 26.

1.3. *The Committee require that final replies duly vetted by Audit to those recommendations/observations in respect of which only interim replies have so far been furnished, should be submitted expeditiously.*

1.3(A). *The Committee will now deal with the action taken by Government on some of their recommendations/observations.*

Curbing of remittances from abroad through unauthorised channels and provision of necessary facilities for increasing such remittances through authorised channels. (Paragraph 2.61—Sl. No. 4).

1.4. Emphasising the need for making the necessary facilities available to the Indians settled or working abroad for remitting their earnings/savings to India through authorised channels and curbing such remittance through unauthorised channels, the Committee in paragraph 2.61 of the 218th Report, recommended as follows:

“In spite of the tightening up of information collection and also the stringent penal provisions in the law, the Department could not, it appears, put a stop to the *Havala* transactions, because of alleged lack of evidence on which to proceed effectively against the operators. It is only in recent months that by using preventive detention the *Havala* transactions are stated to have been reduced. The Committee note that some special facilities have also been given to attract inward remittances through authorised channels and such remittances have increased. According to the estimates made by the Reserve Bank of India, there has been an increase of nearly 75 per cent in the remittances from abroad during the period January—October, 1975, as compared to the corresponding period of 1974. It is not clear to what extent the reported increase in remittance is attributable to the special facilities given to attract inward remittance and how far the anti-smuggling operations and the use of preventive detention have contributed to the result. The Committee are disturbed that the practice of remittances to a large extent by Indian nationals abroad through unauthorised channels has facilitated large scale smuggling by big operators. This practice needs to be firmly and finally ended. The Committee desire that a close watch should be kept over the present trend in the remittances made through authorised channels, so that the relative impact of the special facilities and the anti-smuggling operations could be ascertained. It goes without saying that the Department should keep themselves in close touch with the intelligence agencies in this regard. The Committee understand that a goodly proportion of the Indians settled or working abroad are keenly desirous of remitting their earnings/savings to India, if only certain facilities they consider necessary are provided. The Government of India have no doubt offered recently some concrete inducement in

order to attract remittances through authorised channels. However, these facilities do not yet appear attractive enough to the majority of Indian nationals residing abroad and they do not feel like repatriating on current or capital transfer account some of the money they have earned abroad. Government, therefore, would be well-advised to find out precisely what particular difficulties prevent the flow back to India of money that should, naturally, come from her nationals residing in foreign countries. It should also be possible to devise suitable measures to remove such difficulties and help the national economy."

1.5. In their Action Taken Note dated 31st August, 1976, the Department of Economic Affairs have stated:

"We are not concerned with *Havala* transactions nor with anti-smuggling operations. However, we in the E.C. Division are concerned with the inward remittances and among other reasons because of certain facilities given to the non-resident Indians, inward remittances are increasing day by day. According to the Reserve Bank of India's report inward remittances through authorised channels from January—October, 1974 were Rs. 456.05 crores and for January—October, 1975 were Rs. 845.02 crores. We again declared many concessions during November, 1975 and after these concessions were given the gross monthly non-export receipts which were Rs. 89.96 crores at the time of introduction of scheme during November, 1975 have now increased to Rs. 156.22 crores in July, 1976 according to the figures furnished by the RBI. However, in this connection it is worthy to note that these receipts are the non-export receipts which include all kinds of receipts such as airlines receipts, shipping receipts, insurance receipts, dividend receipts, tourism receipts, etc., besides four heads of receipts relevant to the term inward remittances, (i) family maintenance, (ii) savings of non-residents, (iii) migrant transfers; and (iv) money order receipts.

We have also given the following incentives to attract inward remittances for Indians settled abroad during November, 1975:

1. To open Non-resident (external) accounts designated in rupees.

2. To open non-resident (external) accounts designated in foreign currencies, i.e., Dollars and £ Sterlings.
3. Under the scheme of investment we have given the following incentives:
 - (a) Investment in Units, Government securities, etc.
 - (b) Investment in industries with no repatriation right.
 - (c) Direct investment in selected industries on repatriation basis.
 - (d) Export of shares, securities, units, etc.
4. Priority allotment of motor-cars, scooters, tractors and cement against inward remittances of foreign exchange.
5. Acquisition of immovable property.

Besides these we have also speeded up remittance procedure by introducing FIRPS (Foreign Inward Remittance Payment System). According to this new instrument called FIRP as soon as bank in India will receive a remittance from abroad for an Indian resident, the bank will convert the amount into rupees at the exchange rate prevailing on that date and issue by post a FIRP to that amount. It will somewhat be a traveller cheque which can be encashed at par in any bank in India.

We are of the view that non-resident Indians do now have adequate facilities to remit money to India."

1.6. The Department of Revenue and Banking have intimated the Committee, through an Action Taken Note, dated 1st June, 1977, as follows:

"The main reasons for *Havala* transactions (compensatory payments) are:

- (i) disparity between the official and un-official rates of exchange of certain favourable foreign currencies;
- (ii) procedural difficulties in the remittance of money from foreign countries through authorised banking channel;
- (iii) restrictions put by the foreign Governments on transfer of funds; and
- (iv) prevalence of smuggling in the country.

The disparity between the official and un-official rates of exchange again depends on various factors, the more important of which is the illegal demand for foreign exchange, mainly for financing smuggling. Unless all factors responsible for the continuance of *Havala* transactions are removed, the compensatory payments cannot be stopped completely. The Enforcement Directorate has been detecting cases of *Havala* transactions all along. It can at best only contain these illegal transactions like any other enforcement agency.

In this connection Action Taken Note furnished by Department of Economic Affairs may kindly be perused and the figures of inward remittance for the period from January to October, 1974, 1975 and 1976 may be compared. These figures are furnished below:

Inward Remittances (non-export)

<i>January-October</i>	<i>Rupees in crores</i>
1974	456.05
1975	845.02
1976	1240.08

The above figures indicate 85 per cent increase (approx.) in remittances from abroad in the first 10 months of 1975 as compared to 1974. The percentage of increase for the same period of 1976 as compared to 1975 is only 46 per cent. It may not be possible to precisely indicate the relative impact of anti-smuggling operations and special facilities offered by Department of Economic Affairs on the increase noticed in the inward remittance levels. The upswing in the inward remittances by Indians abroad could be traced to the cumulative effect of various factors and not directly to any single factor alone. However, having regard to the fact that most of the important incentives to attract inward remittances were announced in November, 1975 only, the increase in inward remittances noticed in January—October, 1975 period would give an indication of the extent to which anti-smuggling activities contribute to increase in remittance till 1975.

It is a fact that detention of foreign exchange racketeers under COFEPOSA Act, has had a salutary effect and such transactions have been considerably reduced. With the lifting of emergency with effect from 21st March, 1977,

large number of such racketeers, who were detained under COFEPOSA Act have been released from detention. The racketeers are likely to resume their operation, leading to the increase in the incidence of compensatory payments.

The Department is well aware of these developments. Efforts are being made to strengthen the internal and external intelligence set up of the Enforcement Directorate. A further tightening of anti-smuggling efforts also would be necessary to reduce the illegal demand for foreign exchange. Department of Economic Affairs is also being requested to streamline the procedural formalities involved in the remittance of money into India through authorised banking channel. The various schemes of incentives to attract inward remittances, introduced in 1975 may have to be reviewed by Economic Affairs Department and whatever improvements necessary should be carried out."

1.7. The Committee are glad to note the upward swing in the inward remittances from abroad due to a number of concessions afforded by the Government from time to time. According to the Reserve Bank of India report inward remittances through authorised channels from January-October 1974 were Rs. 456.05 crores, for January-October 1975, Rs. 845.02 crores and those for January-October 1976, Rs. 1240.08 crores. Further, as a result of the concessions declared during November 1975, the gross monthly non-export receipts which were Rs. 89.96 crores during November 1975 increased to Rs. 156.22 crores in July 1976. The Committee hope that this upward trend in the inward remittances will not only be maintained but further improved upon in future.

1.8. According to the Department of Revenue and Banking unless all factors responsible for the continuance of Havala transactions like—

- (i) disparity between the official and unofficial rates of exchange of certain favourable foreign currencies;
- (ii) procedural difficulties in the remittance of money from foreign countries through authorised banking channel;
- (iii) restrictions put by the foreign Governments on transfer of funds; and
- (iv) prevalence of smuggling in the country are removed, the

Havala transactions (compensatory payments) cannot be stopped completely. Though the detention of foreign exchange racketeers under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 has had a salutary effect in reducing such transactions considerably, the Department have stated that these racketeers on release after lifting of emergency are likely to resume their operations, leading to the increase in the incidence of compensatory payments. The Committee hope that besides urgently streamlining the procedural formalities involved in the remittance of money into India through authorised banking channel, the Enforcement Directorate will keep a constant vigilance and take remedial steps from time to time to keep an effective check on illegal Havala transactions.

1.9. With a view to provide all necessary facilities to the Indians settled or working abroad, keenly desirous of remitting their earnings/savings to India, the Committee had recommended the Government to find out precisely what particular difficulties prevented the flow back to India of money that should naturally come from her nationals residing in foreign countries and to devise suitable measures to remove such difficulties and help the national economy. The action taken notes are silent with regard to any action in this regard except stating that the non-resident Indians do now have adequate facilities to remit money to India. It has also been stated that the various incentives to attract inward remittances introduced in 1975 may have to be reviewed by Economic Affairs Department for effecting necessary improvements therein. The Committee trust that the efficacy of the measures taken vis-a-vis the flow of inward remittances would be kept under constant review.

Reformation of the normal law for proceeding against the smugglers and other anti-social law-breakers. (Paragraph 2.65—Sl. No. 8)

1.10. With a view to proceed effectively against the smugglers and other anti-social law-breakers under the normal law, the Committee, in paragraph 2.65 of their 218th Report, had observed as follows:

“Smuggling is a most indigenously organised operation. The top man almost always remains as far as away from the venue as possible. Efforts by Department to catch them by collecting some tangible evidence were often unsuccessful in the courts because the normal law of the land

left many escape routes to the smuggler. It was only, therefore, through the emergency provisions of COFEPOSA Act that the desired results were achieved. The Committee would like to observe that since the emergency provisions are only a temporary measure and the persons so detained are due to be released after a period of two years, long term solutions to the problem confronting the Department should be also evolved. The Committee are anxious that it should be possible for the Department to proceed against the smugglers and other anti-social law-breakers under the normal law rather than resort to emergency measures that are, by their very nature, temporary. Reformation of the law in this regard should, therefore, have top priority in the consideration of Government."

1.11. In their Action Taken Note dated 31 August 1976, the Department of Revenue and Banking have stated:

"The strengthening of the law is under the active consideration of the Government. Legislative measures for speedy and effective trial of economic offences, such as setting up of special courts are being examined. The Customs law is also being examined to consider plugging of certain loopholes, and realigning rules of evidence as may be reasonably possible."

1.12. Having failed to effectively combat smuggling under the normal law the desired results were stated to have been achieved only through the emergency provisions of COFEPOSA Act. Since the emergency provisions were only a temporary measure, the Committee had observed that for the sake of proceeding against the smugglers and other anti-social law-breakers under the normal law, reformation of the law in this regard should have top priority in the consideration of Government. According to the action taken note, strengthening of the law is under the active consideration of the Government. The Committee trust that the examination of Customs law and other legislative measures from the point of view of strengthening the law would be completed soon and necessary legislative measures brought before Parliament.

Custody of the seized gold. (Paragraph 3.42—Sl. No. 15)

1.13. Suggesting *inter alia*, a thorough investigation into the entire procedure with regard to the disposal of the seized gold with a view to eliminating delays at various stages before and after ad-

judication and to ensure that the actual despatch of gold to the Mints takes place as soon as possible after seizure, the Committee had, in paragraph 3.42 of the 218th Report, recommended:

“The Committee learnt that the quantity of gold confiscated absolutely, under various laws relating to possession of gold, that is to say, without option to redeem it on payment of fine, was 27,823 kgs. during the period from the beginning of the financial year 1963-64 upto 31st March 1974. However, the total value of gold lying in the Mints, as on 31-3-1974 was reported to the Committee to be Rs. 9.63 crores, the value having been computed at the International Monetary Fund rate of Rs. 84.40 per 10 gms. In terms of weight, therefore, this gold lying in the Mints would amount to no more than 11,410 kgs. It would follow that the balance of the gold confiscated absolutely, i.e., 16,431 Kgs. should still be locked up in departmental custody. This, is, in the Committee’s view, an alarming situation. Apparently it implies that there must have occurred delays not only between seizure and adjudication as well as between adjudication and the passing of the disposal orders but also thereafter, in actual disposal through despatch of gold to the Mints. Such laxity cannot be countenanced. The retention of large quantities of gold for apparently long periods in the Custom House is fraught with great risks which are entirely avoidable. The Committee would like at any rate, to know precisely where and how the gold not sent to the Mints is stored. The Committee would require also to be assured that the relevant balances are tallied systematically and on the basis of physical verification Government should undertake without delay a thorough investigation into the entire procedure with a view to eliminate delays at various stages before and after adjudication and to ensure that the actual despatch of gold to the Mints takes place as soon as possible after the seizure.”

1.14. In their Action Taken Note* dated 1 September 1976, the Department of Revenue and Banking have stated:

“The total value of the gold lying in the Mints as on 31-3-1974 as reproduced in this para of the Committee’s Report was not given by the Gold Control Administration. The Mi-

*Not vetted by Audit.

nistry of Finance, Department of Economic Affairs, have since informed that in addition, the Reserve Bank of India held on behalf of Bombay Mint a quantity of 13,897 kgs. of gold. The information regarding the quantity of gold held by or on behalf of the Mints was thus incomplete and this has resulted in an unfavourable impression being formed. Department of Economic Affairs have also intimated that the Mints held stocks of gold even prior to 1-4-1963 and that during the period 1-4-1963 to 31-3-1974, the Mint received 20,959 kgs. of confiscated gold of different fineness which after refining weighed 20,823 kgs.

The difference between the quantity confiscated absolutely and the quantity sent to the Mint would represent the quantity of confiscated gold held with the Department because the confiscated gold is transferred to the Mints only after the Appeals/Revision Applications and the prosecution proceedings etc. are over in individual cases. During the intervening period the confiscated gold is kept stored in the Strong rooms which are well guarded in the Custom Houses/Central Excise Collectorates. The bigger quantities of gold are also sometimes transferred to the vaults of the Reserve Bank/District Treasuries or the State Bank Treasuries for safety.

The Committee may be assured that each and every seizure of gold is entered in the Valuables Godown Register and is required to be fully accounted for and audited. Physical verification of stocks of gold is also required to be done. Stocks which are ripe for being sent to the Mint must be sent without delay. The Committee's observations are, however, being sent to the field formations for compliance."

1.15. Commenting upon the retention of 16,413 kgs. of gold confiscated absolutely, in the departmental custody, the Committee had, in their earlier Report, disfavoured the retention of large quantities of gold for apparently long periods in the Custom Houses which was fraught with great risks and which ought to be due to delays not only between seizure and adjudication as well as between adjudication and the passing of the disposal orders but also thereafter in actual disposal through despatch of gold to the Mints. The Committee had as such emphasised the need for undertaking a thorough investigation into the entire procedure with a view to eliminating delays at various stages before and after adjudication so that actual despatch of gold to the Mints took place as soon as possible after

the seizure. In their Action Taken Note the Department have explained that the Reserve Bank of India also held on behalf of Bombay Mint a quantity of 13,897 kgs. of gold, which still leaves quite a large quantity of as much as 2516 kgs. of gold in the departmental custody. The reply of the Ministry, however, does not indicate any steps taken or proposed to be taken in this regard except stating that during the intervening period the confiscated gold is kept stored in the strong rooms which are well guarded in the Custom Houses/Central Excise Collectorate. Whatever may be the type of security arrangements at the Custom Houses/Central Excise Collectorate, the Committee still feel that the retention of large quantities of gold for apparently long periods at these places is fraught with great risks. The Committee would, therefore, reiterate their earlier recommendation for undertaking a thorough review of the entire procedure with a view to eliminating delays at various stages before and after adjudication and to ensure that the actual despatch of gold to the Mints takes place expeditiously after its seizure.

Value account of the seized and confiscated gold and allocation of credit in Government account for the gold confiscated absolutely (Paragraph 3.43—Sl. No. 16).

1.16. Commenting upon the need for keeping a value account of the seized and confiscated gold and allocation of credit in Government account for the gold confiscated absolutely, the Committee had, in paragraph 3.43 of the 218th Report, recommended as follows:

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

1.17. In their Action Taken Note dated 6th September 1976, the Department of Revenue and Banking have stated:

“Although no financial credit for the value of gold confiscated or sent to the Mint is afforded in Government's account, it may be stated that proper accounting regarding quantity etc. is maintained in the Custom Houses for such gold

confiscated or sent to the Mint. Each and every seizure of gold is entered in the valuables godown register and is required to be fully accounted for and audited. Physical verification of stocks of gold is also required to be done.

The reason for not allotting credit in the Government account flows from the fact that as credit to the Customs Head could be given only by a corresponding debit in the Capital Head for purchase of gold, necessitating a supplementary grant under the latter head, no particular advantage will be served by such an arrangement. The Comptroller and Auditor General of India have also maintained that since the Government accounts are kept on cash basis, it is not appropriate to take credit in Government accounts for the value of confiscated gold by credit to suspense before the gold is actually sold or otherwise utilised by the Government. Such a procedure would be contrary to the instructions contained in the Note below Article 37 of Account Code.

It may be further stated that with the handing over of confiscated gold to the Mint by the Custom Houses, the entire matter relating to subsequent account of such gold would lie with the Mints in question where the confiscated gold is handed over. The auditing of the Mint's proforma stock account is done by the Accountant General concerned.

The matter has now, however, been again examined by the Department of Economic Affairs in the light of the PAC's recommendations regarding the question of allocation of credit and that Department has considered that there is no justification for changing the present procedure."

1.18. The Committee are not satisfied with the reasons advanced by the Government for not seeing any justification for changing the present procedure regarding keeping of value account of the seized and confiscated gold and to allocate credit in Government accounts accordingly. The points made out by the Ministry that a physical account of the quantity is kept in the Custom Houses, physical verification of stocks is done periodically and that account of the receipts of gold is maintained in the Mint's proforma accounts do not obviate the need for maintaining a proper value account with a view to ensuring that the credit on account of seizure and confiscation of

gold is exhibited in Government account lucidly. The Committee feel that it should not be beyond the capability of the Government to resolve any difficulties in maintaining proper value accounts in consultation with C&AG.

Valuation of gold (Paragraph 3.45—Si. No. 18)

1.19. Dealing with the question of valuation of gold, the Committee had, in paragraph 3.45 of their 218th Report, recommended as follows:

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

1.20. In their Action Taken Note* dated 1st September, 1976, the Department of Economic Affairs have stated:

“The question of valuation of gold reserves at present IMF official price as well as at market price has been carefully examined and the Government has come to the conclusion that it will not be appropriate to change the existing method of valuation of gold reserves at present.”

*Not vetted by Audit.

1.21. Keeping in view the fact that the International Monetary Fund had agreed to abolish altogether the official price of gold and also a large number of countries valued their gold reserves at 42 dollars an ounce, the Committee had expressed surprise that the Government had chosen to value their gold at the IMF rate of 35 dollars an ounce although the revised rate was 42 dollars and even some countries like France had started valuing their gold reserves at the ruling market price. The Committee had, therefore, desired that the question of valuing the gold at market price should be carefully examined. The Government, on consideration have concluded that it would not be appropriate to change the existing method of valuation of gold reserves. The Committee have not been informed of the reasons which weighed with the Government for maintaining status quo with regard to the valuation of gold reserves and not falling in line with the position obtaining in other countries. The Committee would like the Government to reconsider the matter once again in all its details.

Uniform valuation of the seized gold. (Paragraph 3.46—Sl. No. 19).

1.22. Emphasising upon the need for uniform valuation of the seized gold retrospectively with a view to reconciling the existing inaccuracies, the Committee had, in paragraph 3.46 of the 218th Report, recommended as follows:

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

1.23. In their Action Taken Note dated 31 August, 1976, the Department of Revenue and Banking have stated:

"The value of the gold at the time of seizure was formerly being taken at IMF regulations. Subsequently, after the change in the IMF regulations necessary instructions were issued to record the value at market rate at the time of seizure. The value recorded at the time of seizure is taken for all subsequent processes like confiscation etc. All the statements and returns sent to the Department and other agencies are also compiled on that basis. In so far as the accounting of the gold seized is concerned, the same is done on the basis of the weight recorded in the panchnama and the gold after confiscation as sent to the Mint. Therefore, the reconciliation of accounts in terms of market value retrospectively will not serve any useful purpose besides entailing stupendous amount of work. The confiscated gold received by the Government of India Mint from Customs/Central Excise authorities is melted and taken over to the Mint Proforma Account in terms of weight only.

The Mint has always been indicating the value of gold at IMF rate."

1.24. The Committee are not convinced with the argument adduced by the Department that reconciliation of the accounts in terms of market value retrospectively will not serve any useful purpose. The Committee feel that, in as much as the value of the gold is expressed in the Government records, in addition to weight, the values should be on a uniform basis and should also be capable of reconciliation. The Committee cannot too strongly emphasise the need for revising the past valuations on a uniform basis and tallying the figures.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

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

[Serial No. 1 (Paragraph 1.16) of Appendix IV to 218th Report
of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The suggestion of the P.A.C. for undertaking a review of the working of the various enforcement and intelligence agencies engaged in offences relating to the possession of gold to enable a concrete evaluation of the position and for taking further necessary measures was placed before the Headquarters Coordination Committee of the Revenue Wing of this Department which examined the issue in depth. In this connection, it was noted that though coordination existed even before detailed instructions for coordination among various enforcement agencies were issued as far back as in September, 1967. The instructions issued in September, 1967, apart from enjoining that every agency receiving information which points to the contravention of not only the provisions of the enactments with which it is concerned

but also to contraventions under other enactments will be responsible to see that the other concerned agency is associated with the action to be taken against the party. The said instructions also provided that if, as a result of initial scrutiny of the records seized during the course of any search or otherwise, some clues relating to offences falling within the jurisdiction of other agencies are found, those agencies should be asked to associate in the scrutiny of the documents with the agency seizing the documents and that in the case of every important search, the fact of the search should be intimated to the other agencies after the search as a matter of course. The instructions regarding coordination were last reiterated in July, 1975. The instructions issued in July, 1975, *inter alia*, emphasised that in day-to-day working of the enforcement agencies, coordination may be maintained in regard to exchange of information etc. as warranted by the merits and circumstances of each case and that the results of searches by one enforcement agency should be communicated to the other agencies without loss of time in regard to matters requiring follow-up action by other agencies. It was also noted that important individual cases requiring coordination between various agencies are discussed by the zonal and local coordination committees.

The Headquarters Coordination Committee was of the view that the existing instructions and arrangements for coordination in the day-to-day working of the various enforcement agencies were adequate. The Committee felt that identification of concrete results achieved by coordination may not be feasible and that the results of the various measures adopted for effective coordination in the working of various enforcement agencies are reflected in the overall performance of these agencies.

The Committee, while noting that the aforesaid general instructions and arrangements which exist for ensuring effective coordination also apply to cases requiring coordination in gold control cases, felt that it may be checked with Law Ministry whether it would be possible having regard to the provisions of section 107 of Gold (Control) Act to pass on in routine the list of declarants under the Gold (Control) Act along with details of the declarations to the Wealth Tax authorities. The matter is under examination in consultation with the Law Ministry.

It was also decided by the Headquarters Coordination Committee that a circular may be issued stating that whenever jewellery is seized by Income-tax authorities in the course of their search and seizure operations, if the quantity of gold jewellery seized was above the limits prescribed for declarations under section 16 of the Gold (Control) Act, an intimation should be sent regarding such seizure

by the Income-tax authorities to the jurisdictional Gold Control authorities immediately for appropriate action, if any, under the Gold (Control) Act.

[Ministry of Finance (Department of Revenue & Banking)
O.M. No. 166/36/76-Tech.Coord. dated 31-8-1978]

Recommendation

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

[Serial No. 2 (Paragraph 259) of Appendix IV to 218th
of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The Department is keeping a constant watch over the fluctuations in the price of gold in the International Market as well as in the Indian market and the profit margin in the smuggling of gold. Recently as a result of the international price of gold having further fallen, the smugglers' profit margin has considerably increased, increasing the incentive for gold smuggling. The various implications of this have been explained to the Collectors of Customs and

the have been asked to appropriately redeplely their intelligence and preventive resources.

[Ministry of Finance (Department of Revenue & Banking)
O.M. No. 411/41/76-Cus.III dated 30-8-1976]

Recommendation

The Committee have learnt that 20 High Speed boats have been imported from Norway to combat and defeat the craft operated at sea by smugglers. The Department propose to acquire 100 such boats, the bulk of which is to be manufactured by Garden Reach Workshop on the basis of an agreement regarding know-how with Norwegian manufacturers. The Committee drew attention to same press reports about the alleged operational defects in these boats. The Committee are assured that there was some little teething trouble because the boats were of sophisticated build and had the latest system of high-drop propulsion which enables easy movement into shallow water and also the picking up of greater speed when on the sea. Tropical conditions were said also to have caused the peeling of a part of the bottom. Only one boat, it appears, suffered major damage as a result of collision with a rock. The Committee were informed that the manufacturers engineers had looked into these defects and the boats were being repaired. A peculiar charge that some sugar had been put in the engine was found baseless after chemical tests were made. The Customs Department, however, do no appear to have a first-rate and trained organisation for the purpose and problems had to be tackled in the shortest possible time. At the moment a Senior Officer from the Navy is looking after the training programme and also, generally, the maintenance side. The boats were expected to be commissioned after the monsoon and on the basis of their performance, a decision was to be taken about the purchase of more boats of this or some other type. The Committee wish that the reasons for some of the boats having been out of commission should be properly investigated. If, as, the Committee were informed, small boats though speedy, could not be used in bad weather, the Department should also decide if other types of all weather craft should acquired. A report on the actual utilisation of these boats should be furnished to the Committee.

[Serial No. 10 (Paragraphs 2.67) of Appendix IV to 218th
of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The Norwegian boats had some operational problems when used in Indian Waters. They were found to heave and slam heavily while

running into head seas and the sophisticated stern drive which enables the boat to ply in shallow waters was posing problems. The hull in some cases was also found to peel off in Indian water conditions. Therefore, before going into further acquisition of such crafts, it was decided to evaluate performance of these boats fully. Accordingly their evaluation was done by Committees in March '75 and April, 1976. The Committees felt that the sophisticated hydro stern system was not suitable to Indian conditions and it was preferable to have crafts with conventional propulsion system. It was also felt that the accommodation for staff on board these crafts was not sufficient for long sorties. It was, therefore, decided that no more crafts of this design be acquired and feasibility study undertaken to see if these crafts could be converted into crafts with conventional propulsion system and also for providing suitable on board accommodation and strengthened hull. M/s. Garden Reach Workshop are being entrusted to carry out this feasibility study and if this proves successful the question of converting the existing crafts suitably will be considered. The evaluation Committee has also suggested the acquisition of six crafts of proven design which can operate in Indian tropical condition and for this, after indicating our requirement, a global enquiry is to be floated by the Garden Reach Workshop. Besides, the Department has already placed an order for 3 modified version of naval Seaward Defence Boats for regular all weather sea patrol. The 19 crafts which are at present available are deployed in the vulnerable areas as indicated below:—

(1) Ahmedabad Collectorate	—	6
(2) Bombay Collectorate	..	4
(3) Poona Collectorate	—	2
(4) Goa Collectorate	—	1
(5) Bangalore Collectorate	—	2
(6) Cochin Collectorate	—	4

These crafts are used for coastal patrol, for surveillance on coastal traffic as well as interception of smugglers' crafts on the basis of information.

[Ministry of Finance (Department of Revenue and Banking
letter No. 411/53/76-Cus.III dated 31-8-1976)]

Recommendation

The Committee learnt that a certain amount of air-surveillance would largely help the anti-smuggling campaign. That a good deal remains to be done is seen in the Finance Secretary's admission that

he was not satisfied with the anti-smuggling measures implemented so far. While noting some good work undoubtedly done recently, the Committee consider that patrol and surveillance measures should be adequately strengthened so that the menace of smuggling can be truly overcome.

[Serial No. 11 (Paragraph 2.68) of Appendix IV to 218th of the Public Accounts Committee (5th Lok Sabha)]

Action taken

In consultation with the Ministry of Defence an arrangement for air surveillance with the help of Indian Air Force helicopters etc. has already been made in and around Bombay area. For the present, it is felt that having a fully equipped air surveillance scheme under the control of the Department may not be economical and the experience gained from the existing arrangement would considerably help the Department in deciding the future strategy.

[Ministry of Finance (Deptt. of Revenue and Banking)
letter No. 411/53/76-Cus.III dated 31-8-1976]

Recommendation

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

[Serial No. 12 (Paragraph 2.69) of Appendix IV to 218th Report of Public Accounts Committee (5th Lok Sabha)]

Action Taken

The meritorious services of the officers are appreciated through President-Awards and monetary rewards. The reward rules are under examination to consider modifications wherever necessary to provide for prompt payments to sustain the zeal and enthusiasm of the officers employed on preventive duties and also to raise adequately the amount of reward. In addition to 19 existing Norwegian crafts, the Government propose to acquire six crafts of proven design with conventional propulsion system suitable for Indian weather conditions through G.R.W. Besides, the department has already placed an order for 3 modified version of Naval S.D.B. crafts for regular sea patrol off the coastal traffic. Two water jet crafts have also been ordered through Garden Reach Workshop from a New Zealand firm for use in estuaries/creeks/canals for trial purposes. If these are found suitable more would be got manufactured.

Apart from the aforesaid proposals relating to vessels, the Department has also supplied additional vehicles to the preventive parties and recently 61 vehicles have been so provided. The question of providing extra staff to some of the Collectorates is also under consideration with the Department of Expenditure. A wireless communication system has been fully implemented on the west coast and a part of the east coast and as well as in the vulnerable sector of Indo-Pak border in Chandigarh Collectorate. The possibility of providing a wireless net-work on the Indo-Nepal border is also under examination of the Government. The extension of the wireless communication system is being done in a phased programme.

With a view to supporting, identifying and following the movements of suspected vessels/vehicles, 20 Night Sights have already been imported from U.K. Another lot of 28 such Night-Sights along with accessories has also been imported. The preventive staff are equipped with arms and ammunition wherever necessary to enable them to discharge their duties effectively. The field formations have also been provided binoculars and tape recorders. Besides appropriating suitable confiscated binoculars for departmental use from time to time, the Government have also procured from the Ordinance Factory, Dehradun, 150 binoculars for use by the officers deployed on preventive work. Another lot of 97 pairs of binoculars is also to be procured shortly and the Ministry of Defence has been requested to accord suitable priority.

So far as the delay in sanction of expenditure for anti-smuggling equipments etc. is concerned, it may be stated that there are certain unavoidable financial and economic constraints accentuated by

stringency of foreign exchange. Further the procedure for obtaining sanctions have built-in-safeguards to avoid waste. The officials at various levels have to be convinced of the needs, with the comprehensive details & data which are analysed by them to their satisfaction by critical scrutiny. However, it is expected that with the introduction of system of integrated finance (which is likely to come into force very shortly) where the proposals for staff and equipment will not be required to be referred to Department of Expenditure for concurrence and which will be examined only by the Financial Adviser under the Department of Revenue and Banking, delays will be minimised.

[Ministry of Finance (Department of Revenue & Banking)
O.M. No. BL.11014/18/76-Ad-V, dated 22-1-1977]

Recommendation

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

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

[Serial No. 14 (Paragraph 3.4) of Appendix IV to 213th Report
of the Public Accounts Committee (5th Lok Sabha)]

Action Taken

The Directorate of Inspection have been asked to make a detailed study and suggest appropriate changes in the existing procedure and arrangements.

[Ministry of Finance (Department of Revenue & Banking)
O.M. No. 411/44/76-CUs.III, Dated 31-8-1976]

Recommendation

The Annual Reports of the Ministry of Finance for the years 1969 to 1974 indicate that the total seizures of gold under the Customs Act in that period amounted, in terms of value to Rs. 15.13 crores. According to the Annual Reports of the Ministry, the quantity of gold seized on account of contravention of the Gold (Control) Act, during the first ten months of 1968 to 1971 was 2287 kg. (value Rs. 193 lakhs) in 1968, 4351 kg. (value Rs. 367 lakhs) in 1969, 4748 kg. (value Rs. 401 lakhs) in 1970 and 2313 kg. (value Rs. 195 lakhs) in 1971. It has been stated by the Ministry that some doubt has occurred regarding the accuracy of these figures but since records have been destroyed, it has not been possible to re-check them or to give figures for the entire year. This is indeed a not only deplorable but an entirely impermissible situation. It is nothing short of extraordinary that the Ministry does not seem to be aware of the exact quantities or the value of gold seized or held by them at particular points of time. The Committee would like to have a complete statement, as on 31-3-74, of gold seized under both the Acts, of gold released, of gold held in departmental custody and of gold sent to the Mints. The Committee would also ask Government to devise forthwith a rational procedure to ensure that a complete inventory is always kept available. Without such safeguards, many conceivable malpractices might take place, but it is the responsibility of Government to check and eliminate them.

[S. No. 17 (paragraph 3.44) of appendix IV to the 218th report of the Public Accounts Committee (5th Lok Sabha)]

Action Taken

A statement showing the gold seized under both the Gold (Control) Act, 1968 and the Customs Act, 1962, gold released, gold sent to the Mint, and gold held in departmental custody for the period from 1-4-68 to 31-3-70 is given below:

Quantity of gold seized	Quantity of gold released	Quantity of gold sent to the mint	Quantity of gold held in departmental custody
(in grams)	(in grams)	(in grams)	(in grams)
2,65,13,733	27,64,721	1,93,73,534	1,33,75,349

(There is a difference of 129 grms., between the quantity in column (1) and the total quantities shown in columns (2), (3) and (4). This negligible discrepancy is generally on account of rounding off of fraction of grms., accurate weighing of the gold on receipt by the Mint, etc.)

2. The above statement has been compiled on the basis of individual entries made in the Valuables Godown Register for individual seizures in the filled formations. Against each seizure entry in the aforesaid Register, subsequent release, if any, of the gold seized, the gold sent to the Mint after confiscation is final, and the balance held in departmental custody are indicated. The ornaments are generally allowed to be released on payment of a suitable redemption fine adjudged by the Adjudicating Authority. The disposal of the confiscated gold by sending it to the Mint is done only after the necessary appeal and revision proceedings are over and also where prosecutions are launched, after the court case is finalised.

3. It may be clarified that when seizure of foreign marked gold is made outside the Customs area (i.e., Indian Customs Waters and ports) the offence is booked generally under both the Customs Act and the Gold Control Act. Therefore, the figures of seizure under the Customs Act and seizure under Gold Control Act as reported in the Annual Reports are not mutually exclusive.

4. It may also be explained that when the figures of seizure for the first 10 months of each year from 1968 to 1971 as reported in the Annual Reports were forwarded to the P.A.C., the Ministry had wanted to check up whether the figures reported were correct. It was, however, found that the files in which the information was compiled for the preparation of the Annual Reports had been destroyed in the course of weeding out of old records and hence it was stated that it had not been possible to check the figures as reported in the Annual reports or to give figures for the entire years. The Ministry would, however, like to explain that the fact that the files in which the figures were compiled were not available did not mean in any way that the Deptt. was lax with regard to control over seized gold. Each field formation has a Valuable Godown Register and each seizure has a file containing the panchanama showing details of seizure. These registers are required to be inspected by senior officers and are also checked by intrnal audit and are open for inspection by C & A.G.'s audit parties. Any entry of seizure can be checked up and can be fully accounted for.

[Ministry of Finance (Department of Revenue and Banking)
letter No. 127/28/76-GCI Dated 1-9-1976]

Recommendation

The performance of the administration in the past years appears also to be perfunctory. In the whole country, the administration seized gold in excess of the prescribed limit in 50 cases in 1970, 13

cases in 1971, 19 cases in 1972 and 43 cases in 1973. The number of cases however rose for some reason to 134 in 1974. The amendment of the Gold (Control) Act made in 1973 had meanwhile raised the maximum permissible term of imprisonment to seven years. The Committee are keen that all lethargy is shaken off and the administration should wake up to the more vigilant and intense effort that is called for today.

[S. No. 22 (paragraph 3.49) of appendix IV to the 218th report of the Public Accounts Committee (5th Lok Sabha)]

Action Taken

The observations of the Committee have been noted and brought to the notice of the Collectors of Central Excise and Customs. They have also been instructed to the effect that the Preventive and Intelligence Machinery should be geared up and all the resources should be mobilised to unearth the hoardings of gold wherever the individuals and the families have in their possession, custody or control in excess of the limits prescribed under section 16 of the Gold (Control) Act, 1968 and no declarations have been filed by them.

[Ministry of Finance (Department of Revenue and Banking)
O.M. No. 127/28-C 76-GC-I dated 21-7-1976]

Recommendation

After the aforesaid amendment, the number of convictions obtained in the whole country was 34 in 1973 (from September to December) 144 in 1974 and 127 (upto October 1975). The Committee urge the administration to undertake a review of these cases to see how the amendment made in 1973 has made for better results by the provision of the deterrent punishment in appropriate cases.

[S. No. 23 (paragraph 3.50) of Appendix IV to the 218th report of Public Accounts Committee (5th Lok Sabha)]

Action Taken

The observations of the Committee have been noted and brought to the notice of the Collectors of Central Excise and Customs concerned and they have been instructed to undertake a review of the post-1973 amendment offences where the convictions were obtained.

[Ministry of Finance (Department of Revenue and Banking)
O.M. No. 127/28-D/76-GC-I dated 21-7-1976]

CHAPTER III

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

Recommendation

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

[Serial No. 3 (Paragraph 2.60) of Appendix IV to 218th Report of Public Accounts Committee (5th Lok Sabha)]

Action Taken

The observations of the Committee are confirmed.

[Ministry of Finance (Department of Revenue and Banking) O.M. No. 411/40/76-Cus. III, dated 31-8-1976].

The Audit Para No. 2.60 of the 218th Report of PAC has been examined in this Department and we confirm that Foreign Exchange Regulation Act, 1973 contains provisions which are more stringent for giving penalties and imprisonment etc., for the persons violating foreign exchange regulations. N666

[Ministry of Finance (Department of Economic Affairs) O.M. No. 196/EC/76 dated 1-9-1976].

Recommendation

Government have from time to time sought to combat smuggling by strengthening the provisions of the Customs Act, Gold Control Act and other similar legislations. In 1969, Chapter IV a was introduced in the Customs Act. According to the provisions of this

Chapter, every person possessing notified goods is required to furnish a statement of such goods in his possession to the notified Customs Officer. Such goods acquired by him after the notified date have also to be similarly stated to the appropriate officer. After this amendment, the onus of proof, that the goods were not smuggled rested upon the persons from whose possession the goods were seized. These measures have unfortunately failed to achieve the objective. According to the Ministry, even after the legal loopholes were plugged there was the practical difficulty of employing large numbers of people at the numerous crucial points. Even so, a large number of raids have been conducted especially in big cities. The Committee were told that there were many difficulties in carrying out raids on shops and godowns and in catching the real culprits; quite often the operators are tricky and the public who might help, are apathetic. The amendment made to the Customs, Gold Control and Central Excise Acts in 1973 had meanwhile enhanced the maximum imprisonment from five to seven years. From the analysis made by audit of 30 cases of the period 1970 to 1974, the Committee find that the punishments inflicted were simple imprisonment of one day in 3 cases, rigorous imprisonment from 3 months to 6 months in 22 cases, rigorous imprisonment from 9 months to 18 months in five cases. It appears that the comparatively stringent amendment to the law, did have the desired effect. According to the Finance Secretary, round about 1973-74, the volume of seizures was approaching Rs. 50 crores a year. The increasing pace of smuggling needed more drastic measure to be taken. The Government thus promulgated in September, 1974, an Ordinance to amend the Maintenance of Internal Security Act, 1971. This authorised detention without trial of any person acting in a manner prejudicial to the conservation of foreign exchange or found to be engaged in (i) smuggling goods (ii) abetting other persons in smuggling goods or (iii) dealing in smuggled goods. The ordinance was in due course replaced by an Act, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974. This Act was further amended from 1st July, 1975, providing *inter alia* that no grounds for detention were required to be furnished to any detenu under the said Act. According to the information furnished to the Committee, the number of persons against whom orders of the detention had been issued under COFEPOSA Act, 1974, as on 16th August, 1975 was 1509. The number of persons against whom orders of detentions have been issued under COFEPOSA Act as amended, from 1-7-1975 to 31-1-1976 is 1009.

[S. No. 5 (Paragraph 2.62) of Appendix IV to 218th Report of the Public Account Committee (5th Lok Sabha)]

Action taken

As a result of the country-wide anti-smuggling drive launched after the promulgation of preventive detention in September, 1974 leading to the detention of well-known smugglers, there has been decline in the smuggling activities and this has been confirmed by intelligence reports. The following figures relating to seizures indicate that while the number of seizures have gone up, the value of goods seized as a result thereof has gone down considerably.

Year	No. of seizures	Value in lakhs (Rs.)
1974	49555	Rs. 6006
1975	64569	Rs. 4527
1976 (Jan. to May)	27510 (Prov.)	Rs. 1101 (Prov.)

Open display and sale of smuggled goods in the market has also diminished. Another indication of the success of anti-smuggling drive is the increase in the volume of non-trade remittances of foreign exchange to India through normal banking channels. The tempo of the drive is however being maintained without any let up. In fact the anti-smuggling actively has been further stepped up, with larger numbers of raids and Searches, and greater intelligence activity etc.

The number of persons against whom orders for detention under COFEPOSA have been issued upto 21-8-1976 is 2591. In this regard, special attention has been paid to the gang leaders and their lieutenants and associates such as transporters, stockists and dealers through whom contraband goods after landing are disposed of. At the moment the focus is on second-liners and the new operators who may be coming up to replace those already held under detention.

[Ministry of Finance (Department of Revenue and Banking
O.M. No. 411/35/76-Cus. III dated 30-8-1976)]

Recommendation

The Committee were informed that 45 persons out of 669 persons detained under MISA Ordinance, 1974, were released by Courts. A number of them so released have however, been re-detained. According to the Ministry, the number of releases ordered by the Courts on technical grounds would not affect the effectiveness of the anti-smuggling operations undertaken by Government. Further, the

smuggler and Foreign Exchange Manipulators (Forfeiture of Property), Ordinance, 1975 (since replaced by an Act) was promulgated in November, 1975 and action thereunder is stated to have been initiated by the Central Board of Direct Taxes.

[Serial No. 6 (Paragraph 2.63) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

317. notices under Section 6(I) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, have been issued by the Competent Authority upto 15-8-76 and the approximate value covered by these notices is Rs. 12.76 crores.

[Ministry of Finance (Department of Revenue) O.M. No. 411/51/76-Cus-III dated 24-8-1977]

Recommendation

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

[Serial No. 7 (Paragraph 2.64) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

As a result of the detention of a large number of smugglers and their associates, the smuggling activity has diminished considerably. Various indications such as the trends of seizure, intelligence reports and increase in non-trade remittances of foreign exchange to India through banking channels suggest a marked decline in smuggling of goods into the country.

[Ministry of Finance (Department of Revenue and Banking) O.M. No. 411/36/76-Cus III dated 18-2-1977]

Recommendation

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

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

[Serial No. 9 (Paragraph 2.66) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)].

Action taken

The existing instructions to the Heads of Departments subordinate to the Board provide for periodical transfer of officers who have worked for specified period at particular stations. Shorter period of stay has been prescribed for executive officers as compared to the ministerial staff. Though there is a general ban on routine periodical transfers as a measure of economy in administration, the instructions provide that exceptions may be made in the following circumstances, viz:—

- (i) Where there are complaints and the integrity of an officer is in doubt and it is considered desirable to effect his transfer; or
- (ii) It is thought that for particular administrative reasons a transfer should be effected e.g., an officer is not able to cope with the work and is not effective in a particular station because of the circumstances prevailing there.
- (iii) Sensitive postings which necessitate periodical rotation in public interest.

With regard to the proposal for keeping the process of weeding out of undesirable officers under constant attention, it is stated that according to the instructions of the Department of Personnel, the question of deciding the suitability of officers for retention in service beyond 50|55 years of age under FR 56(j) and beyond completion of 30 years qualifying service under Rule 48 of CCS (Pension) Rules, 1972 has to be taken up in every quarter of the year and the result of the review intimated to that Department. The said review in respect of all officers and staff working in the organisations subordinate to the Board is being conducted regularly every quarter and the result thereof indicating the number of officers whose cases

have been reviewed and the number out of them who have been retired prematurely is intimated to the Department of Personnel. [Ministry of Finance (Department of Revenue and Banking) O.M. No. A-60011/21/76-CERC (Admn.) dated 16-2-1977].

Recommendation

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

[Serial No. 11 (Paragraph 2.70) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)].

Action Taken

While the Department of Revenue and Banking is concerned with anti-smuggling measures, the Ministry of Home Affairs deal with espionage and spying activities. Coordination between them in regard to exchange of information is achieved through various Committee meetings at which their representatives and of the organisations such as Border Security Force, Customs, Enforcement Directorate Revenue Intelligence and State Government authorities

are present at these meetings details of anti-smuggling measures and intelligence, information or suspicion about trends and persons connected with smuggling or with spying etc., are discussed and communicated to the concerned agencies. These meetings are held at the top level and the middle level.

A Committee of Secretaries headed by Cabinet Secretary looks into the anti-smuggling and other allied matters. There are also meetings between the State Police, Customs and Border Security Force at the district level. The cooperation amongst and coordination between the various agencies is also reviewed at periodical meetings of the Customs and State Government authorities which are presided over by the Minister for Revenue and Banking and the Minister for Department of Personnel. The recommendation of the Public Accounts Committee in regard to coordination has been noted and has also been brought to the notice of the Home Ministry.

[Ministry of Finance (Department of Revenue and Banking) O.M.
No. 11/42/76-Cus. III dated 31-8-1976].

CHAPTER IV

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

Recommendation

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

The Committee understand that a goodly proportion of the Indians settled or working abroad are keenly desirous of remitting thier earnings/savings to India, if only certain facilities they consider necessary are provided. The Government of India have no doubt offered recently some concrete inducement in order to attract remittances though authorised channels. However, these facilities do not

yet appear attractive enough to the majority of Indian nations residing abroad and they do not feel like repatriating on current or capital transfer account some of the money they have earned abroad. Government, therefore, would be well-advised to find out precisely what particular difficulties prevent the flow back to India of money that should naturally, come from her nationals residing in foreign countries. It should also be possible to devise suitable measures to remove such difficulties and help the national economy.

[Serial No. 4 (Paragraph 2.61) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Saabha)].

Action Taken

We are not concerned with Havala transactions nor with anti-smuggling operations. However, we in the E.C. Division are concerned with the inward remittances and among other reasons because of certain facilities given to the non-resident Indians, inward remittances are increasing day by day. According to the Reserve Bank of India's report inward remittances through authorised channels from January-October, 1974 were Rs. 456.05 crores and for January-October, 1975 were Rs. 845.02 crores. We again declared many concessions during November, 1975 and after these concessions were given the gross monthly non-export receipts which were Rs. 89.96 crores at the time of introduction of scheme during November, 1975 have now increased to Rs. 156.22 crores in July, 1976 according to the figures furnished by the RBI. However, in this connection it is worthy to note that these receipts are the non-export receipts which include all kinds of receipts such as airlines receipts, shipping receipts, insurance receipts, dividend receipts, tourism receipts, etc., besides four heads of receipts relevant to the term inward remittances, (i) family maintenance, (ii) savings of non-residents, (iii) migrant transfers; and (iv) money-order receipts.

We have also given the following incentives to attract inward remittances for Indians settled abroad during November, 1975.

1. To open Non-resident (external) accounts designated in rupees.
2. To open non-resident (external) accounts designated in foreign currencies i.e., Dollars & £ Sterlings.
3. Under the scheme of investment we have given the following incentives:

- (a) Investment in Units, Govt. securities, etc.
 - (b) Investment in industries with no repatriation right.
 - (c) Direct investment in selected industries on repatriation basis.
 - (d) Export of shares, securities, units, etc.
4. Priority allotment of motor-cars, scooters, tractors and cement against inward remittances of foreign exchange.
 5. Acquisition of immovable property.

Besides these we have also speeded up remittances procedure by introducing FIRPS (Foreign Inward Remittances Payment System). According to this new instrument called FIRP as soon as bank in India will receive a remittance from abroad for an Indian resident, the bank will convert the amount into rupees at the exchange rate prevailing on that date and issue by post a FIRP to that amount. It will somewhat be a traveller cheque which can be encashed at par in any bank in India.

We are of the view that non-resident Indians do not have adequate facilities to remit money to India.

[Ministry of Finance (Department of Economic Affairs) O.M. No. 1.96/EC-76, dated 31-8-1976].

The main reasons for Havala Transactions (compensatory payments) are:—

- (i) disparity between the official and unofficial rates of exchange of certain favourable foreign currencies;
- (ii) procedural difficulties in the remittance of money from foreign countries through authorised banking channel;
- (iii) restrictions put by the foreign Governments on transfer of funds; and
- (iv) prevalence of smuggling in the country.

2. The disparity between the official and unofficial rates of exchange again depends on various factors, the more important of which is the illegal demand for foreign exchange, mainly for financing smuggling. Unless all factors responsible for the continuance of Havala transactions are removed, the compensatory payments cannot be stopped completely. The Enforcement Directorate

has been detecting cases of Havala transactions all along. It can at best only contain these illegal transactions like any other enforcement agency.

3. In this connection 'Action Taken Note' furnished by Department of Economic Affairs may kindly be perused and the figures of inward remittances for the period from January to October, 1974, 1975 and 1976 may be compared. These figures are furnished below.

<i>Inward Remittances (Non-export)</i>	
Jan.—October	Rs. in crore,
1974	456·05
1975	845·02
1976	1240·08

4. The above figures indicate 85 per cent increase (approx.) in remittances from abroad in the first 10 months of 1975 as compared to 1974. The percentage of increase for the same period of 1976 as compared to 1975 is only 46 per cent. It may not be possible to precisely indicate the relative impact of anti-smuggling operations and special facilities offered by Department of Economic Affairs on the increase noticed in the inward remittance levels. The upswing in the inward remittances by Indians abroad could be traced to the cumulative effect of various factors and not directly to any single factor alone. However, having regard to the fact that most of the important incentives to attract inward remittances were announced in November 1975 only, the increase in inward remittances noticed in January—October, 1975 period would give an indication of the extent to which anti-smuggling activities contributed to increase in remittances till 1975.

5. It is a fact that detention of foreign exchange racketeers under COFEPOSA Act. has had a salutary effect and such transactions have been considerably reduced. With the lifting of emergency with effect from 21st March 1977, large number of such racketeers, who were detained under COFEPOSA Act have been released from detention. The racketeers are likely to resume their operation, leading to the increase in the incidence of compensatory payments.

6. The Department is well aware of these developments. Efforts are being made to strengthen the internal and external intelligence set up of the Enforcement Directorate. A further tightening of anti-smuggling efforts also would be necessary to reduce the illegal demand for foreign exchange. Department of Economic Affairs is also being requested to streamline the procedural forma-

lities involved in the remittance of money into India through authorised banking channel. The various Schemes of incentives to attract inward remittances, introduced in 1975 may have to be reviewed by Economic Affairs Department and whatever improvements necessary should be carried out.

[Ministry of Finance (Department of Revenue and Banking)
Letter No. 164/14/77-TC, dated 1-6-1977].

Recommendation

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

[Serial No. 8 (Paragraph 2.65) of Appendix IV to 218th Report of the Public Accounts Committee 5th Lok Sabha].

Action Taken

The strengthening of the law is under the active consideration of the Government. Legislative measures for speedy and effective trial of economic offences, such as setting up of special courts are being examined. The Customs law is also being examined to consider plugging of certain loopholes, and realigning rules of evidence as may be reasonably possible.

[Ministry of Finance (Department of Revenue and Banking)
O.M. No. 411/50 76-Cus. III, dated 31-8-1976].

Recommendation

The Committee learnt that the quantity of gold confiscated absolutely, under various laws relating to possession of gold, that is to

say, without option to redeem it on payment of fine, was 27,823 kgs. during the period from the beginning of the financial year 1963-64 up to 31st March, 1974. However, the total value of gold lying in the Mints, as on 31-3-1974 was reported to the Committee to be Rs. 9.63 crores, the value having been computed at the International Monetary Fund rate of Rs. 84.40 per 10 gms. In terms of weight, therefore, this gold lying in the Mints would amount to no more than 11410 kgs. It would follow that the balance of the gold confiscated absolutely, i.e., 16413 kgs. should still be locked up in departmental custody. This is, in the Committee's view, an alarming situation. Apparently it implies that there must have occurred delays not only between seizure and adjudication as well as between adjudication and the passing of the disposal orders but also thereafter, in actual disposal through despatch of gold to the Mints. Such laxity cannot be countenanced. The retention of large quantities of gold for apparently long periods in the Custom House is fraught with great risks which are entirely avoidable. The Committee would like at any rate, to know precisely where and how the gold not sent to the Mints is stored. The Committee would require also to be assured that the relevant balances are tallied systematically and on the basis of physical verification. Government should undertake without delay a thorough investigation into the entire procedure with a view to eliminate delays at various stages before and after adjudication and to ensure that the actual despatch of gold to the Mints takes place as soon as possible after the seizure.

[S. No. 15 (paragraph 3.42) of appendix IV to the 218th report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The total value of the gold lying in the Mints as on 31-3-1974 as reproduced in this para. of the Committee's Report was not given by the Gold Control Administration. The Ministry of Finance, Department of Economic Affairs, have since informed that in addition the Reserve Bank of India held on behalf of Bombay Mint a quantity of 13,679 Kgs. of gold. The information regarding the quantity of gold held by or on behalf of the Mints was thus incomplete and this has resulted in an unfavourable impression being formed. Deptt. of Economic Affairs have also intimated that the Mints held stocks of gold even prior to 1-4-1963 and that during the period 1-4-1963 to 31-3-1974, the Mint received 20,959 kgs. of confiscated gold of different fineness which after refining weighed 20,823 kgs.

2. The difference between the quantity confiscated absolutely and the quantity sent to the Mint would represent the quantity of confiscated gold held with the Deptt. because the confiscated gold is

transferred to the Mints only after the Appeals/Revision Applications and the prosecution proceedings etc. are over in individual cases. During the intervening period the confiscated gold is kept stored in the Strong rooms which are well guarded in the Custom Houses/Central Excise Collectorates. The bigger quantities of gold are also sometimes transferred to the vaults of the Reserve Bank/District Treasuries or the State Bank Treasuries for safety.

3. The Committee may be assured that each and every seizure of gold is entered in the Valuables Godown Register and is required to be fully accounted for and audited. Physical verification of stocks of gold is also required to be done. Stocks which are ripe for being sent to the Mint must be sent without delay. The Committee's observations are, however, being sent to the field formations for compliance.

[Ministry of Finance (Department of Revenue and Banking) letter No. 127/28/76-GC-I, dated 1-9-1976].

Recommendation

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

[Serial No. 16 (Paragraph 3.43) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

Although no financial credit for the value of gold confiscated or sent to the Mint is afforded in Government's account, it may be stated that proper accounting regarding quantity etc. is maintained in the Custom Houses for such gold confiscated or sent to the Mint. Each and every seizure of gold is entered in the valuables godown register and is required to be fully accounted for and audited. Physical verification of stocks of gold is also required to be done.

The reason for not allotting credit in the Government account flows from the fact that as credit to the Customs Head could be given only by a corresponding debit in the Capital Head for purchase of gold, necessitating a supplementary grant under the latter Head, no particular advantage will be served by such an arrangement. The Comptroller & Auditor General of India have also maintained that

since the Government accounts are kept on cash basis, it is not appropriate to take credit in Government accounts for the value of confiscated gold by credit to suspense before the gold is actually sold or otherwise utilised by the Government. Such a procedure would be contrary to the instructions contained in the Note below Article 37 of Account Code.

It may be further stated that with the handing over of confiscated gold to the Mint by the Custom Houses, the entire matter relating to subsequent account of such gold would lie with the Mints in question where the confiscated gold is handed over. The auditing of the Mint's proforma stock account is done by the Accountant General concerned.

The matter has now, however, been again examined by the Department of Economic Affairs in the light of the PAC's recommendations regarding the question of allocation of credit and that Department has considered that there is no justification for changing the present procedure.

[Ministry of Finance (Department of Revenue and Banking O.M. No. 545/26/76-L.C.I. dated 6-9-1976)]

Recommendation

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

[Serial No. 18 (Paragraph 3.45) of Appendix IV to 218th Report of Public Accounts Committee (5th Lok Sabha)]

Action taken

The question of valuation of gold reserves at present IMF official price as well as at market price has been carefully examined and the Government has come to the conclusion that it will not be appropriate to change the existing method of valuation of gold reserves at present.

[Ministry of Finance (Department of Economic Affairs) O.M.
No. F. 8(16)—B(RA) 76 Dated 1-9-1976]

Recommendation

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

[S. No. 19 (paragraph 3.46) of appendix IV to the 218th report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The value of the gold at the time of seizure was formerly being taken at I.M.F. rate fixed under I.M.F. regulations. Subsequently after the change in the I.M.F. regulations necessary instructions were issued to record the value at market rate at the time of seizure. The value recorded at the time of seizure is taken for all subsequent processes like confiscation etc. All the statements and returns sent to the Department and other agencies are also compiled on that basis. In so far as the accounting of the gold seized is concerned, the same is done on the basis of the weight recorded in the panchnama and the gold after confiscation as sent to the mint. Therefore, the reconciliation of accounts in terms of market value retrospectively will not

serve any useful purpose besides entailing stupenduous amount of work. The confiscated gold received by the Government of India Mint, from Customs/Central Excise authorities is melted and taken over to the Mint Proforma Account in terms of weight only.

The Mint has always been indicating the value of gold at I.M.F. rate.

Ministry of Finance (Department of Revenue and Banking)
O.M. No. 127/28-E,76-GC-I dated 31-8-1976]

CHAPTER V

RECOMMENDATIONS|OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendations

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

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

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

[Serial Nos. 20, 21 and 25 (Paragraphs 3.47, 3.48 and 3.52) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The observations of the Committee are being examined for appropriate action in consultation with Department of Economic Affairs and Reserve Bank of India.

[Ministry of Finance (Department of Revenue and Banking)
O.M. No. 145/39/76-GC. II Dated 31-8-1976]

Recommendation

The Gold Control Act has been in force from 1st September, 1968. The gold control set up, with a Gold Controller heading the administration being a part of the Finance Ministry Secretariat and enforcing the law through Central Excise Collectorates, would appear to have been devised more as immediate short term measure with a view to bringing the Act into operation, than as a long term arrangement to achieve the objectives. From an examination of the evidence tendered before the Committee it is clear that the Gold Controller exercises no real control, nor is he even in possession of necessary information relating to the extent of private holding of gold. It does not appear that he even thought deeply enough over his job to feel even the necessity of such information. The whole mechanism operates defensively and half-heartedly in the process inevitably depending upon voluntary declarations and chance detection during customs, income-tax and central excise raids. This situation calls for reflection and change. Further it is time to review the limits prescribed under the Act for the purpose of declaration. A ceiling of 2,000 gms. of gold for an individual and 4,000 gms. of gold for HUF would appear to afford adequate cover to a private hoarding where both the ceilings could be availed of by a family group which is very often populous. This is possibly the reason why the figure of 69,280 kilograms of gold furnished by Gold Controller as gold held in private hands appears to be ridiculously low. The Committee cannot, therefore help feeling that a thorough review of the entire Gold Control set-up, and also the administration of the Gold Control Act by an expert Committee is immediately necessary with a view to finding out whether the real objectives have been even approximately achieved and what improvement could and should be made to strengthen the Gold Control Administration.

[Serial No. 24 (Paragraph 3.51) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

The Gold Control organization has been set up for administering the Gold Control Act. The Act exempts private citizens from dec-

laring their gold unless it exceeds the limit of 4 kilograms per family or 2 kilograms per adult. Therefore, the Gold Control organization does not have information about private holding of gold. The Government have been examining from time to time the effects of the Gold Control Act on individuals, goldsmiths, gold dealers etc. and considering various measures to plug loopholes in the existing scheme of the Gold Control Act. In this connection, a Cabinet Committee has been appointed by the Government to undertake a comprehensive review of the working of the entire Gold Control scheme. Its work is in progress.

The recommendations of the PAC relating to bringing down the ceiling for purposes of declaration under the Gold Control Act will also be placed before the Cabinet Committee.

[Ministry of Finance (Department of Revenue and Banking)
O.M. Dated 31-7-1976]

Recommendations

During evidence the Committee enquired whether in order to check the demand for gold, it was thought feasible that trading in gold should be taken over by Government. Some difficulties were explained before the Committee in this regard. First, this might, it was feared, throw a large number of goldsmiths out of employment. Secondly, Government could not buy and sell gold at market price as they were bound by the procedure laid down by the International Monetary Fund to purchase it at the I.M.F. rate. Thirdly, a vast organisation would be needed, entailing a severe burden on the limited resources of the country and it was a moot point whether the expenditure and deployment of the requisite human and other resources would be commensurate with the anticipated advantages. The Committee appreciated these difficulties. The Committee would certainly discountenance any measure which might result in the unemployment of goldsmiths or of artisans workers. This however, does not imply a negative decision on this important issue. The problems of gold price, in view of the IMF rate being what it is, should not be insuperable. The recent amendment to I.M.F. procedure enabling the member countries freely to value their gold at market rate indicates significant possibilities. The Committee therefore recommend that Government should seriously and comprehensively examine whether it would be feasible to entrust the State Bank of India (in collaboration with the cooperative banking institutions etc. in rural areas) to take charge of the trade in gold. In that case, a separate organisation would not be needed and goldsmiths would by no means necessarily be deprived of employment. It should go without saying

that in the larger social interest effective measure to regulate the purchase and sale of gold are indispensable. The flow of smuggled gold into the market which has had such adverse effect for long on our economy must be eliminated. Since on the findings of the Committee, the Gold (Control) Act has not effectively served this objective, and has at best been a desultorily administered palliative, Government would be well advised to adopt all necessary measures with earnestness and expedition.

[Serial No. 26 (Paragraph 3.53) of Appendix IV to 218th Report of the Public Accounts Committee (5th Lok Sabha)]

Action taken

As the entire scheme of the Gold Control is under review by a Cabinet Committee, the above suggestion of the P.A.C. regarding entrusting the S.B.I. to take charge of the gold trade in India, will be placed before the Cabinet Committee.

[Ministry of Finance (Department of Revenue and Banking
O.M. Dated 31-7-1976)]

C. M. STEPHEN.

*Chairman,
Public Accounts Committee.*

NEW DELHI;
April 11, 1978.
Chaitra 21, 1900 (S).

APPENDIX

Conclusions/Recommendations

Sl. No.	Para No. of the Report	Ministry/Department concerned	Conclusion/Recommendation
1	2	3	4
1	1.3	Ministry of Finance (Department of Revenue)	The Committee require that final replies duly vetted by Audit to those recommendations/observations in respect of which only interim replies have so far been furnished, should be submitted expeditiously.
2	1.7	Ministry of Finance (Department of Economic Affairs) / Department of Revenue	The Committee are glad to note the upward swing in the inward remittances from abroad due to a number of concessions afforded by the Government from time to time. According to the Reserve Bank of India report inward remittances through authorised channels from January—October, 1974 were Rs. 456.05 crores for January—October, 1975, Rs. 845.02 crores and those for January—October, 1976, Rs. 1240.08 crores. Further, as a result of the concessions declared during November, 1975, the gross monthly non-export receipts which were Rs. 89.96 crores during November, 1975 increased to Rs. 156.22 crores in July, 1976. The Committee hope that this upward trend in the inward remittances will not only be maintained but further improved upon in future.
3	1.8	-do-	According to the Department of Revenue and Banking unless all factors responsible for the continuance of Havala transactions like— (i) disparity between the official and unofficial rates of exchange of certain favourable foreign currencies;

- (ii) procedural difficulties in the remittance of money from foreign countries through authorised banking channel;
- (iii) restrictions put by the foreign Governments on transfer of funds; and
- (iv) prevalence of smuggling in the country are removed, the Havala transactions (compensatory payments) cannot be stopped completely. Though the detention of foreign exchange racketeers under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 has had a salutary effect in reducing such transactions considerably, the Department have stated that these racketeers on release after lifting of emergency are likely to resume their operations, leading to the increase in the incidence of compensatory payments. The Committee hope that besides urgently streamlining the procedural formalities involved in the remittance of money into India through authorised banking channel, the Enforcement Directorate will keep a constant vigilance and take remedial steps from time to time to keep an effective check on illegal *Havala* transactions.

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Department of Economic
Affairs / Department of
Revenue

With a view to provide all necessary facilities to the Indians settled or working abroad, keenly desirous of remitting their earnings/savings to India, the Committee had recommended the Government to find out precisely what particular difficulties

prevented the flow back to India of money that should naturally come from her nationals residing in foreign countries and to devise suitable measures to remove such difficulties and help the national economy. The action taken notes are silent with regard to any action in this regard except stating that the non-resident Indians do now have adequate facilities to remit money to India. It has also been stated that the various incentives to attract inward remittances introduced in 1975 may have to be reviewed by Economic Affairs Department for effecting necessary improvements therein. The Committee trust that the efficacy of the measures taken vis-a-vis the flow of inward remittances would be kept under constant review.

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Ministry of Finance
(Department of Revenue)

Having failed to effectively combat smuggling under the normal law, reformation of the law in this regard should have top priority through the emergency provisions of COFEPOSA Act. Since the emergency provisions were only a temporary measure, the Committee had observed that for the sake of proceeding against the smugglers and other anti-social law-breakers under the normal law, reformation of the law in this regard should have top priority in the consideration of Government. According to the action taken note, strengthening of the law is under the active consideration of the Government. The Committee trust that the examination of Customs law and other legislative measures from the

point of view of strengthening the law would be completed soon and necessary legislative measures brought before Parliament.

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Ministry of Finance
(Department of Revenue)

Commenting upon the retention of 16,413 kgs. of gold confiscated absolutely, in the departmental custody, the Committee had in their earlier Report, disfavoured the retention of large quantities of gold for apparently long periods in the Custom Houses which was fraught with great risks and which ought to be due to delays not only between seizure and adjudication as well as between adjudication and the passing of the disposal orders but also thereafter in actual disposal through despatch of gold to the Mints. The Committee had as such emphasised the need for undertaking a thorough investigation into the entire procedure with a view to eliminating delays at various stages before and after adjudication so that actual despatch of gold to the Mints took place as soon as possible after the seizure. In their Action Taken Note the Department have explained that the Reserve Bank of India also held on behalf of Bombay Mint a quantity of 13,897 kgs. of gold, which still leaves quite a large quantity of as much as 2516 kgs. of gold in the departmental custody. The reply of the Ministry; however, does not indicate any steps taken or proposed to be taken in this regard except stating that during the intervening period the confiscated gold is kept stored in the strong rooms which are well guarded in the Custom Houses/Central Excise Collectorates. Whatever may be the type of security arrangements at the Custom Houses/Central Excise Collectorates, the Committee still feel that

the retention of large quantities of gold for apparently long periods at these places is fraught with great risks. The Committee would, therefore, reiterate their earlier recommendation for undertaking a thorough review of the entire procedure with a view to eliminating delays at various stages before and after adjudication and to ensure that the actual despatch of gold to the Mints take place expeditiously after its seizure.

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Ministry of Finance
(Department of Revenue)

The Committee are not satisfied with the reasons advanced by the Government for not seeing any justification for changing the present procedure regarding keeping of value account of the seized and confiscated gold and to allocate credit in Government accounts accordingly. The points made out by the Ministry that a physical account of the quantity is kept in the Custom Houses, physical verification of stocks is done periodically and that account of the receipts of gold is maintained in the Mint's proforma accounts do not obviate the need for maintaining a proper value account with a view to ensure that the credit on account of seizure and confiscation of gold is exhibited in Government accounts lucidly. The Committee feel that it should not be beyond the capacity of the Government to resolve any difficulties in maintaining proper value accounts in consultation with C&AG.

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Ministry of Finance
(Deptt. of Economic Affairs)

Keeping in view the fact that the International Monetary Fund had agreed to abolish altogether the official price of gold and also

a large number of countries valued their gold reserves at 42 dollars an ounce, the Committee had expressed surprise that the Government had chosen to value their gold at the IMF rate of 35 dollars an ounce although the revised rate was 42 dollars and even some countries like France had started valuing their gold reserves at the ruling market price. The Committee had, therefore, desired that the question of valuing the gold at market price should be carefully examined. The Government, on consideration have concluded that it would not be appropriate to change the existing method of valuation of gold reserves. The Committee have not been informed of the reasons which weighed with the Government for maintaining *status quo* with regard to the valuation of gold reserves and not falling in line with the position obtaining in other countries. The Committee would like the Government to reconsider the matter once again in all its details.

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Ministry of Finance
(Department of Revenue)

The Committee are not convinced with the argument adduced by the Department that reconciliation of the accounts in terms of market value retrospectively will not serve any useful purpose. The Committee feel that, in as much as the value of the gold is expressed in the Government records, in addition to weight, the values should be on a uniform basis and should also be capable of reconciliation. The Committee cannot too strongly emphasise the need for revising the past valuations on a uniform basis and tallying the figures.

