

**PUBLIC ACCOUNTS COMMITTEE
(1978-79)**

(SIXTH LOK SABHA)

HUNDRED AND EIGHTH REPORT

**CASH ASSISTANCE FOR EXPORT OF
ABSORBENT COTTON**

MINISTRY OF COMMERCE

[Paragraph 3 of the Advance Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), relating to Cash Assistance for export of Absorbent Cotton]



*Presented in Lok Sabha on 22-12-1978
Laid in Rajya Sabha on 22-12-1978*

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NEW DELHI**

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Eighth Report of the Public Accounts Committee (Sixth Lok Sabha) on paragraph 3 of the Advance Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil) relating to Cash Assistance for Export of Absorbent Cotton.

2. The Advance Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil) was laid on the Table of the House on 4 April, 1978. The Public Accounts Committee (1978-79) examined this paragraph at their sittings held on the 10th July, 1978. The Committee considered and finalised the report at their sitting held on 21 December, 1978.

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

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

5. The Committee would also like to express their thanks to the officers of the Ministry of Commerce, Ministry of Finance, Basic Chemicals and Pharmaceuticals Export Promotion Council and the Drugs Controller of India for the cooperation extended by them in giving information to the Committee.

NEW DELHI:
December 21, 1978
Agrahayana 30, 1900 (S).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

REPORT

Cash assistance for export of absorbent cotton:

Audit paragraph

1.1. Absorbent cotton wool (also known as absorbent cotton, as hereafter referred to) is a pharmaceutical product used for surgical purposes. It is manufactured by dewaxing raw cotton and treating it further with chemicals, whereby the impurities are removed, the fibre strength is affected adversely and the product so formed absorbs water rapidly. The absorbent cotton so manufactured is in a highly matted state and is subjected to 'carding' process to make it 'fluffy and opened'. The British Pharmacopoeia (BP) and the Indian pharmacopoeia (IP) specifically mention that absorbent cotton is 'well carded'.

1.2. As of June 1977, there were 20 major exporters of absorbent cotton registered with the Basic Chemicals, Pharmaceuticals and Cosmetics Export Promotion Council, Bombay (hereafter referred to as Council), which is concerned with export of this product. Exporters of chemicals, pharmaceuticals, etc., are represented on the Council. It was intimated by the Council (June 1977), however, that all exporters of absorbent cotton were not members of the Council.

1.3. The exports of absorbent cotton upto 1975-76 were as follows:

Year (April-March)	Absorbent cotton.		
	(DGCIS Code No. 658-5601) Quantity (kgs. in lakhs)	F.O.b. value (Rs. in lakhs)	Average 1977 f. o. b. unit value (Rs. per kg.)
1967-68	0.46	2.87	6.30
1968-69	0.70	4.20	6.00
1969-70	0.45	2.98	6.60
1970-71	0.57	3.64	6.45
1971-72	0.03	0.25	7.89
1972-73	1.08	8.60	7.97
1973-74	6.12	63.65	10.41
1974-75	6.54	76.31	11.67
1975-76	0.83	10.07	12.06

SOURCE : Statistics published by the Director General, Commercial Intelligence and Statistics, Calcutta (DGCIS).

1.4. There is no export duty on absorbent cotton (January, 1978). On the other hand, the exports of absorbent cotton qualified for cash assistance (now termed cash compensatory support) at 15 per cent of f.o.b. realisation since 1967 (until 30th July, 1977) and in particular in September 1976, when the 1976-77 cotton season (September 1976—August 1977) commenced.

Raw material (Bengal Deshi)

1.5. The raw material used for the manufacture of absorbent cotton in India is mostly the Bengal Deshi variety.

Bengal Deshi, a short staple cotton, is the cheapest variety of cotton grown in India. Although Bengal Deshi as such cannot be used for spinning, it can be used, in mixture with longer staple cotton, in the manufacture of coarse varieties of cloth. It is also used for filling mattresses, cushions and padding materials. According to the Textile Commissioner, Bombay (August 1977), the only equivalent and comparable variety quoted in international markets is Pakistan Deshi (Sind Deshi and Punjab Deshi).

1.6. There have been substantial exports of Bengal Deshi in the past decade, as shown below:—

Year (April-March)	Bengal Deshi		
	(DGCIS Code No. 263—1101)		
	Quantity (kgs. in lakhs)	F.o.b. value (Rs. in lakhs)	Average f.o.b. value (Rs. per kg.)
1967-68	446.31	1474.71	3.30
1968-69	283.75	1110.49	3.91
1969-70	359.69	1469.04	4.08
1970-71	321.22	1395.38	4.34
1971-72	321.24	1664.27	5.18
1972-73	379.94	2156.73	5.68
1973-74	545.35	3193.17	5.86
1974-75	197.67	1497.71	7.58
1975-76	360.03	2530.86	7.03

SOURCE : Statistics published by DGCIS, Calcutta.

1.7. An export duty of Rs. 700 per tonne was levied on Bengal Deshi cotton in 1974-75 and was continuing (January 1978) to be in force.

Cotton production

1.8. The cotton production in India since 1973-74 was as follows:—

Cotton year (September to August)	Production	
	(bales in lakhs : 1 bale= 170 kgs.)	(tonnes in lakhs)
1973-74	63.09	10.73
1974-75	71.55	12.16
1975-76	61.01	10.37
1976-77	*58.00	*9.86

In view of the decline in cotton production, Government permitted, during the cotton year, 1976-77, import of 14 lakh bales of cotton from abroad for issue to textile mills, for which purpose an allocation of Rs. 398 crores in free foreign exchange was made. By July, 1977, the Cotton Corporation of India had contracted for the import of 11.61 lakh bales of cotton and had actually sold 10.10 lakh bales at subsidised rates which were not higher than the prices of domestic cotton.

1.9. In view of the tight situation prevailing at the commencement of the 1976-77 cotton season (September-August), Government did not permit the export of Bengal Deshi during that season. Explaining the circumstances leading to the above step, the Textile Commissioner stated (July 1977) as follows:

"The cotton season, 1976-77 started with a smaller carry over. Besides, the domestic crop during the season was also below normal level. There was representation from Northern India Mill Owners' Association to Government that on account of reduced cotton crop especially in short staple variety of cotton like Bengal Deshi, mills were utilising Bengal Deshi cotton for the manufacture of coarser counts of yarn in admixture with other lower staple cottons. Manu-

*As estimated by the Cotton Corporation of India.

facturers of absorbent cotton had also represented that any export of Bengal Deshi cotton would seriously affect their raw material supply. Taking all these into consideration, Government did not permit any export of Bengal Deshi cotton during the cotton season, 1976-77."

Exports in 1976-77

1.10. The month-wise exports of Bengal Deshi and absorbent cotton in the financial year 1976-77 were as follows:

	Bengal Deshi			Absorbent cotton.		
	(DGCIS Code No. 263-1101)			(DGCIS Code No. 658-5601)		
	Qty. (kgs. (in lakhs)	f.o.b. value (Rs. in lakhs)	Average f. o. b. unit value (Rs. per kg.)	Quantity (kgs in lakhs)	f.o.b. value (Rs. in lakhs)	Average f. o. b. unit value (Rs. per kg.)
April 1976 . . .	2.57	18.46	7.18	0.11	0.99	8.79
May 1976 . . .	14.75	108.08	7.33	0.09	1.21	12.88
June 1976 . . .	10.54	70.33	6.67	0.20	1.72	8.62
July 1976. . . .	40.29	291.21	7.23	0.35	3.47	10.07
August 1976 . . .	5.85	40.81	6.98	0.20	2.13	10.54
September 1976 . . .	16.27	122.29	7.52	0.58	6.12	10.61
October 1976 . . .	0.05	0.22	4.33	0.61	17.89	29.09
November 1976 . . .	..	..	..	1.22	14.83	12.18
December 1976 . . .	0.02	0.08	4.20	2.967	38.74	13.09
January 1977 . . .	1.10	18.00	16.96	4.60	61.66	13.42
February 1977 . . .	1.56	23.17	14.85	1.21	17.66	14.56
March 1977 . . .	..	..	..	3.14	47.05	14.98
TOTAL: . . .	93.00	692.65	7.45	15.27	213.47	13.98

1.11. In regard to the exports of Bengal Deshi after the commencement of cotton season 1976-77 (i.e. September 1976), the Ministry stated (January 1978):

"It is not clear as to how these exports were made when a ban was imposed in September 1976. Possibly they were pre-ban commitments. However, we are consulting the Textile Commissioner and the Ministry of Industry for facts."

1.12. As regards the f.o.b. unit values of Bengal Deshi after September 1976, the Ministry stated (January 1978):

"The export price of Bengal Deshi cotton after that (ban on exports) for a few months, when exports have been shown, is very erratic.... Our view is that the export price of Bengal Deshi shown for January and February 1977 or the international price at that time or even now, is the hypothetical scarcity price of the commodity. Since India is the main producer and has been the main exporter of this quality of cotton, the international price has shot up artificially after exports from India have been stopped."

1.13. In the statistics published by the DGCIS, Calcutta, the Code No. 658-5601 covers 'absorbent cotton' as also 'wadding and articles of wadding cotton'. In this connection, the textile commissioner, Bombay clarified (November 1977), in reply to an audit query, that while 'absorbent cotton' meant cotton rendered absorbent according to recognised pharmacopoeial standards, 'wadding and articles of wadding, cotton' were fibres felted into a compact mass and used extensively for upholstery, padding cushions, etc. The DGCIS, Calcutta, stated (September 1977), however, that on verification of the relevant customs returns relating to the exports of absorbent cotton it was found that most of the transactions of the financial year 1976-77 (15.15 lakh kgs. value: Rs. 212 lakhs out of a total of 15.27 lakh kgs. value: Rs. 213 lakhs) had been described as absorbent cotton in the returns; regarding the balance, a few returns were stated to be not readily traceable.

1.14. It would appear from the preceding table that while from October 1976 Bengal Deshi exports dwindled a great deal, the quantity of absorbent cotton exports underwent a sudden and steep increase in successive months. Thus, as against the exports of 1.53 lakh kgs. (f.o.b. value Rs. 15.64 lakhs) in the first half of the financial year 1976-77 (April-September 1976), not less than 13.74 lakh kgs. (f.o.b. value Rs. 197.83 lakhs) were exported in the second half of that year, when export of Bengal Deshi was not permitted.

1.15. The following table shows the trends, since April 1976, of the domestic prices of Bengal Deshi in India and the international prices of the only equivalent foreign variety of raw cotton (*viz.*, Pakistan Deshi). The unit value realisations of India's exports of

Bengal Deshi and absorbent cotton are also shown in the table:

	Domestic price of Bengal Deshi (Rs. per kg.)	*f.o.b. price Pakistan Deshi (Quotations) (Rs. per kg.)	Average f.o.b. unit value of Indian exports of absorbent cotton (Rs. per kg.)	Average f.o.b. unit value of Indian exports of Bengal Deshi (Rs. per kg.)
April 1976	7.02	7.61 to 8.37	8.79	7.18
May 1976	7.23	6.69 to 11.06	12.88	7.33
June 1976	8.57	11.25 to 11.40	8.62	6.67
July 1976	8.29	NA**	10.07	7.23
August 1976	7.86	NA**	10.54	6.98
September 1976	7.44	NA**	10.61	7.52
October 1976	6.88	NA**	29.09	4.33
November 1976	7.37	NA**	12.18	..
December 1976	7.86	18.02 to 18.40	13.09	4.20
January 1977	7.86	17.16 to 18.02	13.42	16.36
February 1977	8.43	17.26 to 17.83	14.56	14.85
March 1977	8.43	19.15	14.98	NA***

1.16. Thus, Indian exporters of absorbent cotton had a relative advantage in raw material prices in 1976-77 *vis-a-vis* the international prices of the only comparable variety of raw cotton traded in foreign market, *viz.*, Pakistan Deshi. Nevertheless and despite the shortage of raw cotton in India which had led to the prohibition of export of Bengal Deshi since the commencement of the cotton season 1976-77 in September 1976, the cash compensatory support for encouraging the export of absorbent cotton (which, unlike cotton textiles, does not have a very high degree of value added) was continued during the 1976-77 cotton season.

*Source: Cotton Corporation of India.

**Since Pakistan had also suspended exports in 1976, quotations for these months were not available.

***Data regarding further exports, if any, were not available.

1.17. On being informed (July 1977) by the Ministry of Finance (Department of Expenditure) that a cost study had been undertaken by that Ministry in 1975 in respect of a certain manufacturer—exporter of absorbent cotton (firm 'A') for review of cash assistance on the exports of the product, the above study was called for by Audit on 20th July, 1977 from the Ministry of Commerce but had not been made available (December, 1977).

Quality of absorbent cotton exported in 1976-77 season.

1.18. As would be seen from the preceding table, while the unit values of Pakistan Deshi exports rose steeply to above Rs. 17 per kg. in the international market in December 1976—March 1977 (and such small exports of Bengal Deshi as seem to have taken place in January and February 1977 also fetched unit values of Rs. 16.36 and Rs. 14.85 per kg.), the unit value realisations of the Indian absorbent cotton exports did not register a comparable upward trend but remained well below the prices fetched by Pakistan Deshi exports. In fact, in January and February 1977, the unit values of the Indian absorbent cotton exports (Rs. 13.42 and Rs. 14.56 per kg.) were even lower than those of Bengal Deshi exports (Rs. 16.36 and Rs. 14.85 per kg.).

In this connection, the Customs authorities in Bombay had informed Audit in June 1977 as follows:

“For some time some exporters, particularly firm 'A', have been exporting uncarded cotton in bales of 125 lbs. as absorbent cotton wool. BP. As the British Pharmacopoeia does not recognise uncarded cotton wool and requires these to be in fleecy mass, which condition is not satisfied by shipment in bales, the Custom House has some time back reviewed this practice and disallowed shipment under that description. Now shipment is made as 'uncarded cotton rendered absorbent' and duty of Rs. 700 per tonne is being charged, as Bengal Deshi cotton.”

It might be mentioned in this connection that the Indian Pharmacopoeia requires absorbent cotton to be in packages which should be sealed in a manner so as to prevent access of moisture, which condition would not be fulfilled by packing in bales.

1.19. In July 1977, the Director General, Commercial Intelligence and Statistics, Calcutta, while pursuing certain points raised by Audit

regarding the classification of absorbent cotton was informed by the Customs authorities as follows:

“...While we are regularly having some exports of absorbent cotton wool, we are also having some exports which are now passed under description ‘uncarded cotton rendered absorbent’ on account of the fact that though the shipments are of cotton which has been subject to different chemical process, all the processing for converting the material to absorbent cotton has not been completed. Earlier, erroneously these goods have been passed under the description absorbent cotton..... The goods cannot be passed as absorbent cotton because firstly, they are not carded cotton and secondly, some of the other requirements under Indian Pharmacopoeia or British Pharmacopoeia are not fulfilled.”

1.20. In August 1977, it was clarified by the Bombay Customs authorities that the practice of allowing exports of ‘uncarded cotton rendered absorbent’ under the same export code as applicable to absorbent cotton (*viz.*, No. 658-5601), on payment of Rs. 700 per tonne as duty (applicable to Bengal Deshi cotton) was being followed from 11 May 1977.

1.21. On 6 October 1977, the Collector of Customs, Bombay issued a Public Notice notifying that exports of ‘uncarded cotton rendered absorbent’ would be permitted on declaration in the shipping bill in the following manner:

“Absorbent cotton uncarded but otherwise conforming to pharmacopoeial grade specifications.”

Such exports were to be allowed without payment of duty provided the exporters produced test reports confirming that the cotton was conforming to pharmacopoeial specifications in all respects except ‘carding’.

1.22. On 21 November 1977, however, the Collector of Customs, Bombay issued another Public Notice that these exports would be permitted free of export duty only on provisional assessment, pending a final decision whether duty would be attracted.

1.23. Apart from carding and moisture-proof sealing, the Indian Pharmacopoeia also provides *inter alia* that packings of absorbent cotton should be sterilised when made and that small packings should be labelled ‘sterile’ and bigger packings labelled ‘sterilised when made to be sterilised before use’. In reply to an audit query, the Collector of Customs, Bombay stated (December 1977): “.....it appears that consignments of ‘uncarded cotton rendered absorbent’

exported in 1977 were not labelled sterilised when made to be sterilised before use'. Even before the description was amended to uncarded absorbent, the exporter had been describing the goods as absorbent cotton BP, JP, etc."

Thus,

- (a) Indian exporters of absorbent cotton enjoyed a relative advantage in the matter of raw material prices;
- (b) Indian exports of absorbent cotton continued in the cotton year 1976-77 and even increased, though the export of its raw material (Bengal Deshi) was not permitted due to its shortage;
- (c) despite export of Bengal Deshi being not permitted in the cotton year 1976-77, 'uncarded cotton rendered absorbent' was being exported as absorbent cotton without payment of duty until 10 May 1977, on payment of export duty applicable to Bengal Deshi from 11 May 1977, and free of export duty from 6 October 1977 on provisional assessment basis, pending final decision; and
- (d) exports of absorbent cotton qualified for cash compensatory support at 15 per cent of f.o.b realisation even after commencement of the cotton season 1976-77 (i.e., September, 1976).

Withdrawal of cash compensatory support.

1.24. On 21 July 1977, Audit requested the Ministry to clarify whether the question of the continuance or otherwise of the cash compensatory support on absorbent cotton had been reviewed, in the context, particularly, of the sudden quantitative spurt in the exports of absorbent cotton following the prohibition of Bengal Deshi exports in the 1976-77 cotton season.

1.25. On 30 July 1977, the Ministry of Commerce, issued a notification withdrawing the cash compensatory support on exports of absorbent cotton with immediate effect

1.26. The reasons for permitting exports of uncarded absorbent cotton and withdrawing cash assistance with effect from 30th July, 1977 were stated by the Ministry in January 1978 to be as follows:

- (i) "A conscious decision has been taken in the ministry... that exports of absorbent cotton conforming to pharma-

pharmacopoeial standards, except on the point of carding, should be allowed as has been done during the last 10 years. This decision was taken in July 1977 after considering the matter in two inter-ministerial meetings.....The reason for this decision was the consideration that this is a processed item, industries of which have come up in the last few years. Most of these industries are in the small scale sector."

- (ii) "Decision has been taken to allow exports of uncarded absorbent cotton because it has been represented to the Ministry that there is no demand for carded cotton from India as the buyers in developed countries wish to do the carding and packaging at their end.... It has also been represented that no extra value addition or any other advantage would be obtained by exporting carded absorbent cotton rather than uncarded. This is why a slight deviation from the pharmacopoeial standard was allowed."
- (iii) "However, considering that these exports were affecting a raw material, i.e., Bengal Deshi cotton, which was scarce in the country and whose exports were banned, it was decided that no cash incentive should be given on exports of this product. The cash compensatory support was, therefore, withdrawn with effect from July 1977...."

Government also stated (January 1978):

"The Collector of Customs has mentioned categorically that only absorbent cotton of pharmacopoeial standards was exported on which the Assistant Drug Controller, attached to the Customs, gave a 'no objection certificate'."

1.27. In regard to 'no objection certificate' the Assistant Drug Controller, Bombay had informed (December 1977) the Collector of Customs, Bombay as follows:

"There is . . . a general practice for the customs to refer shipping bills of drugs and cosmetics to this office for 'no objection'. There seem to be no specific notifications or orders in this regard.

As 'Absorbent Cotton Wool IP or BP etc.' is considered as drug, the shipping bills are normally referred to this office in respect of 'uncarded Absorbent Wool' in a form ready for carding, sizing, packing and sterilizations."

1.28. As regards the point that pharmacopoeial standards (BP and IP) required absorbent cotton to be carded, Government stated that "it is not so in the Japanese Pharmacopoeia". It would appear that for purposes of admissibility of cash assistance (until it was withdrawn) the relevant consideration should be Indian rather than Japanese pharmacopoeial standards.

1.29. In regard to the continuance of cash compensatory support on absorbent cotton (until 30 July 1977) even after the introduction of ban on export of Bengal Deshi cotton with effect from the commencement of cotton season 1976-77 (i.e., September 1976), the Ministry stated (January 1978):

"It would be appreciated that whenever a situation warranting a review of admissibility of cash assistance or otherwise on a particular product is noticed in the Ministry, it takes some time to consult the concerned Ministries and organisations and to take orders of the appropriate authorities."

Quantum of cash incentive

1.30. A test-check of the records made available for scrutiny in the offices of the Joint Chief Controllers of Imports and Exports in Bombay and Madras disclosed payments of cash compensatory support of Rs. 6.31 lakhs to three exporters of absorbent cotton in respect of exports made during the period October 1976 to March 1977. Of this, Rs. 6.15 lakhs related to a single exporter 'B' in Bombay. The test-check also revealed that the Joint Chief Controller of Imports and Exports, Bombay had paid Rs. 5.33 lakhs cash compensatory support to firm 'A' on exports of absorbent cotton (uncarded) effected from September 1976 to January 1977.

1.31 The exports of absorbent cotton effected from October 1976 to March 1977, the f.o.b. value of which was Rs. 197.83 lakhs, would attract cash compensatory support of Rs. 29.67 lakhs. Official statistics of absorbent cotton exports since April 1977 were not available (November 1977).

1.32. A test-check of the relevant records in the office of the Joint Chief Controller of Imports and Exports, Bombay also showed that even in 1973-74 and 1974-75 there had been exports bearing the description "Absorbent Cotton (Uncarded BPC)", on which cash compensatory support of Rs. 3.59 lakhs had been paid to firm 'A'.

[Paragraph 3 of the Advance Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil)]

Principles governing grant of cash assistance

1.33. As regards the broad principles that govern grant of cash assistance, the Secretary, Ministry of Commerce stated in evidence:—

“Cash assistance has been an important instrument of promoting exports, particularly, of manufactured goods ever since 1966. An exercise was undertaken at that time as to the competitiveness of Indian products in overseas markets. It was found that on account of the variety of policy factors and the environment obtaining in India, the Indian manufacturers suffered from disadvantages in making their products competitive in the international markets. A scheme was therefore evolved for giving them some kind of a cash assistance in order to enable them to overcome these disadvantages.”

1.34. Elaborating the position further, the Ministry of Commerce have, in a note furnished to the Committee subsequently, stated:—

“As a result of the devaluation of the rupee in 1966, the Government announced a package of measures to encourage exports. One of the important measures adopted was grant of cash assistance on selected export products. A high level Secretaries' Committee after considering the entire question came to the conclusion that introduction of cash assistance on certain non-traditional items facing stiff competition abroad, was necessary on following considerations:—

1. The expectation that 57½ per cent more realisation would off-set the disability of Indian exporter did not come true;
2. Process of diversification and modernisation of export trade had just begun; and
3. A number of items needed assistance on the “infant industry” argument.

Determination of the rates of cash assistance was based on the following broad considerations:—

- (i) Broad groups of items may be provided with uniform

rate of cash assistance on the f.o.b. value after adjusting for import content. It was felt that a system of this kind is more likely to promote exports than a system under which meticulous calculation is made of the cost disadvantages of specific products particularly because elements of precise cost disadvantages of individual items are necessarily subject to error. It was further felt that a scheme of generalised subsidy for broad groups of products would be more effective than grant of subsidy on the basis of detailed calculation for individual items.

- (ii) There should be a cut-off point beyond which subsidy should not be granted because it is not worthwhile exporting at any cost. This cut-off point should be 25 per cent of f.o.b. after deducting import content.

Rates of cash assistance were fixed in 1966 based on the above broad criteria. In accordance with the principles mentioned above, uniform rates of cash assistance were decided for broad groups of items and these rates were not based on any meticulous calculations of cost disadvantages."

1.35. Asked to state whether the principles and procedures adopted for grant of cash assistance were reviewed from time to time the Ministry have stated in a note:

"In October, 1975, a decision was taken that having regard to the export prospects, production capability in the country and competitive strength of products, *vis-a-vis* international prices and other relevant factors, it was necessary to grant additional cash assistance to certain products. Accordingly a number of new products were made eligible for cash assistance with effect from 1st October, 1975 and additional compensatory support was sanctioned on certain other products. These rates were determined on the basis of broad considerations having regard to the promotional assistance which the commodities in question needed under the circumstances existing at that time.

In November, 1975, a high level Committee was set up under the Chairmanship of the then Commerce Secretary (Bose-Mullick Committee) to undertake a review of the import policy, particularly the Registered Exporters policy, in

order of strengthen the production base for exports and to re-organise the scheme of cash assistance as an effective export promotion measure.

In March, 1976, following the recommendation of the Bose Mullick Committee, a decision was taken with the approval of Cabinet Committee on Exports that the rates of cash assistance should be determined by a balanced judgement of the following criteria:—

- (a) export potential and domestic availability as well as supply elasticity of the products;
- (b) import content and domestic value added;
- (c) approximate implicit subsidy, if available, under the import replenishment scheme;
- (d) compensation for irrecoverable taxes and levies;
- (e) difference between the domestic cost and international price of indigenous inputs and raw materials; and
- (f) costs of entry into new market.

Another important development in regard to policy on cash assistance was the decision taken by the Cabinet Committee on Exports in September 1976 that except in regard to cotton textiles, jute manufactures, oil cakes and items made out of non-ferrous metals to a sensitive degree, cash assistance rates once fixed should remain unchanged for 3 years i.e. upto 31st March, 1979. The main reason for this decision was that frequent changes in the rates of cash assistance adversely effect export efforts and create uncertainty in the minds of exporters who in their anxiety to adopt a cautious approach miss export opportunities.

The Committee on Import/Export Policies and Procedures (Alexander Committee) has gone into this issue recently (January 1978) and has suggested some revised criteria for the grant of cash assistance. The recommendations made by the Committee are under the consideration of Government."

1.36. The main observations on the principles of cash assistance for exports, made in the Report of the Committee on Import/Export

Policies and Procedures (Alexander Committee) presented in January, 1978 are reproduced below:—

“4.17...Cash assistance should essentially aim at neutralising the disadvantages arising out of policy factors and also the characteristics of the firm and the product. It is also important to recognise that cash assistance (CA) should be available only for a limited period during which the relevant disadvantages, to the extent possible could be eliminated by conscious efforts. In any case, cash assistance should not be continued for indefinite period. The Committee felt that the magnitude and pattern of cash assistance should be identified on the basis of well-defined principles. After discussing various alternatives of approaches in this regard the Committee has identified the following three basic principles for cash assistance scheme:—

- (a) The level of cash assistance should fully compensate for the various types of indirect taxes, sales taxes etc. which the exporter has to pay on his inputs imported or domestically purchased and which are not refunded. This will enable him to be on par with foreign competitors.
- (b) Cash assistance should be such as to encourage him in adopting adequate marketing strategies and to neutralise the disadvantages of freight etc. so as to be competitive in the export market; and
- (c) In the case of new products in new markets the magnitude of cash assistance should be adequate to take care of the initial promotional costs.

4.18. These principles highlight the importance of the fact that export industry should make its production activity competitive on its own, after these three categories of disadvantages are taken care of. These principles also imply that even if the export industry is supplied all its inputs at competitive international prices, its disadvantages in regard to marketing and promotional efforts need to be compensated until the export of the particular product becomes a stable feature in the trade flows. The Committee has suggested two stages in its approach towards recommendations on cash assistance. Firstly it has suggested some rationalisation and simplifications of the

existing network of assistance. Secondly, it has suggested that above stated principles should be applied to the defferent products to identify the level and structure of assistance in the various export oriented industries which become eligible for the cash assistance. It is recommended that a detailed review of the existing cash assistance schemes should be undertaken and completed during the next twelve months with a view to estimating the new levels and structure of cash assistance based on the above principles. This new system of cash assistance should be introduced with effect from 1 April, 1979 and pending this, the present cash assistance system should continue."

1.37. Admitting during evidence that the quantum of cash assistance has been increased very substantially over the years, the Commerce Secretary deposed:

"I have complete figures upto 1977-78 where it shows that the total cash assistance given is Rs. 227 crores. This supported a total export volume of around Rs. 1500 to 1700 crores. An exercise had previously been undertaken as to overall effect of cash subsidies in promoting export of these products and it showed that the non-traditional manufacturers which were by and large beneficiaries of this cash assistance had increased their share of the total export market from 11 per cent in 1960-61 to 36.1 per cent in 1975-76. Of course, a variety of factors are responsible for promotion of export effort but the general feeling is that cash assistance did provide a much needed boost."

1.38. The Committee enquired about the system of review cash assistance and they desired to know whether any cell exists in the Ministry of Commerce to watch the trends of international trade in respect of commodities for which export incentives are available and to advise at fixed intervals, on the desirability or otherwise of continuing the cash assistance so as to ensure that no cash assistance is given to a commodity which no longer requires it. In a note furnished to them, the Ministry of Commerce have stated:—

"In June, 1974, a Standing Committee (Called the Cash Assistance Review Committee) was set up under the Chairmanship of Additional Secretary, Ministry of Commerce to review cash compensatory support allowed for the export of products from time to time depending on long

term and stable trend in costing and prices realised and other relevant factors.

Although most of the cash compensatory support rates are reviewed just before the rates are due to expire, this does not mean that such review is not made at other times. Ministry of Commerce receives information from various sources which has a bearing on the need or otherwise for cash compensatory support on various products. Such information is obtained from time to time from Export Promotion Councils, reports of studies carried out by the Cost Accounts Branch of the Ministry of Finance, etc. Any information from these sources which has a bearing on cash compensatory support is immediately taken into account and the rates of cash compensatory support are reviewed on that basis, by the Cash Assistance Review Committee. On the basis of information available, the Committee takes a decision on the question of continuation or otherwise of cash assistance on any particular product.

No separate cell has been set up in the Ministry of Commerce exclusively to watch the trends of international trade in respect of products for which cash compensatory support is available."

139. Since the rates of cash assistance were determined on a "balanced judgement" of the various criteria and not on the basis of a rigid formula like difference between the f.o.b. price realisation and the marginal cost of production, the Committee desired to know what date, statistics, information etc. were being collected and how was the rate of cash assistance for each commodity arrived at. In a note furnished to the Committee, the Ministry of Commerce have stated:

"Revised criteria for grant of cash compensatory support were adopted as a result of the recommendations made by the Committee on Export Policy and Import Replenishment Scheme (Bose Mullick Committee). Extracts of paras 6 and 7 of the report submitted by the above Committee are enclosed (Appendix I).

The recommendations of the Committee were approved by the Cabinet Committee on Exports. While the criterion of difference between f.o.b. realisation and marginal cost of production was not completely given up, it was decided that the rates of cash assistance should be determined by

a balanced judgement of the various criteria which have been enumerated in the Report.

Cost data, statistics, etc. are collected from the industry in the prescribed proforma through the concerned Export Promotion Council. The Council conducts verification as follows before forwarding recommendations to Government:—

- (i) Export potential is taken in the context of the information available on world demand, possibilities of export from India to those countries which are importing as also the correspondence between the importer and manufacturer;
- (ii) in respect of the cost of production itself, the Council verifies the cost of the various raw materials, from sources like markets, concerned manufacturers, publications like 'Chemical Times', etc.;
- (iii) f.o.b. realisation is verified from the previous exports effected of the same product or from the correspondence between manufacturers and importers.

The details received from the Council are examined in the Ministry in consultation with the administrative Ministry, Directorate-General of Technical Development and Finance Division. In cases where sufficient justification for grant of cash compensatory support exists, the matter is placed before the Marketing Development Assistance Main Committee (where the proposal is for grant of cash assistance for the first time) or the Cash Assistance Review Committee (in cases where the proposal is only to review the existing rate of cash assistance on any particular commodity). Final decisions are then taken by the appropriate Committee on the basis of a broad general judgement taking into account the various criteria laid down."

Selection of Absorbent Cotton for Cash Assistance

1.40. As regards the selection of absorbent cotton for cash assistance at the rate of 15 per cent of f.o.b. realisation, the Ministry of Commerce have in the note *stated:—

"Absorbent cotton wool had been exported to the extent of Rs. 3 to 5 lakhs per annum during the years, 1964-65 to

*Not vetted in Audit.

1966-67. The Export Promotion Council represented that given adequate assistance, exports of absorbent adequate cotton wool would be increased to Rs. 20 lakhs per year. Our quality was acceptable and price appeared to be the only difficulty. Manufacturers of absorbent cotton wool also approached Government for assistance in meeting competition abroad. The basic disadvantages suffered by the industry were (i) the higher cost of cotton which had gone up from Rs. 600 a candy prior to devaluation to Rs. 850 a candy (ii) the higher freight charges of bulky item like this (iii) the small size of production units, not one of the eight units in India produced more than 1000 kg. per day whereas in other countries similar plants produce 5,000 to 10,000 per day.

It was also represented that after deducting freight and insurance the net fob realisation was Rs. 4.10 per kg. which was said to be 30 per cent lower than the local cost of production.

The Committee of Secretaries in the meeting held on 2nd September, 1967, took into account all the above facts and decided to grant cash assistance of 15 per cent on export of absorbent cotton. The Committee also took into account that there was no import replenishment on the export of this item.

It will be observed that export of absorbent cotton rose from Rs. 2.87 lakhs in 1967-68 (prior to introduction of cash assistance from 1st September, 1967) to Rs. 257.03 lakhs in 1977-78 (April-September, 1977)."

1.41. Enquired as to what were the consideration on which the Cash Assistance Review Committee decided to continue cash compensatory support at 15 per cent upto March, 1976, the Ministry of Commerce have stated in a note*:-

"In connection with the general review of cash assistance on various items, cash assistance on absorbent cotton wool was also reviewed. The case was referred to the Cost Accounts Branch of the Ministry of Finance for an on the spot cost study of a major exporter. The Cash Assistance Review Committee considered the report furnished by the

*Not vetted in Audit.

Cost Accounts Branch and the latest representation of the concerned major exporter and decided as follows:—

“It was decided that the existing rate of cash assistance of 15 per cent will continue upto 31st March, 1976.”

1.42. The Ministry of Finance (Commerce Division) in order to examine the proposal of the Ministry of Commerce for continuance of Cash Assistance at the rate of 15 per cent to the export of absorbent cotton wool, desired the Cost Accounts Branch of the Department of Expenditure (Ministry of Finance) to undertake a study of the cost of production and f.o.b. realisation of the firm of M/s. Lavino Kapur Pvt. Ltd., Bombay who were the main exporters of the absorbent cotton. The conclusions of the Cost Study Report submitted in June, 1975 were as follows:—

“The actual position in 1974-75 indicates that the company did not fare badly in exports even on total cost basis. The current position as indicated by the company shows a much lower realisation but as they have not accepted any order in 1975, the position is not capable of verification as per records, except for enquiries received and offer made.”

1.43. The Audit has brought to the notice of the Committee that in the note for the Standing Committee on Cash Assistance submitted by the Ministry in June, 1975, the following comments were made:—

“In case of engineering products the Cabinet Committee has reiterated the principle of marginal costing. In view of this, that there was profit during 1974-75 and that the reliable trend of f.o.b. realisation in the current year has not become available, we may not support the proposal. The existing cash assistance of 15 per cent may be withdrawn.”

1.44. A copy of the representation dated 1st August, 1975 made by M/s. Lavino Kapur Pvt. Ltd., Bombay, to the Ministry of Commerce requesting for enhancement of cash assistance from 15 per cent to 25 per cent was furnished to the Committee. The representation has, *inter alia*, stated:

“

(6) The Cost Survey held in June, 1975 is historical in as much as it is based on the orders procured by us at the

very boom periods, i.e. November-December 1973 for execution during 1974. Hence this cannot be treated as the representative export price. It is a fact that we have not received any order since February, 1974.

(7) Another objectionable matter to the Cost Study is that the marginal cost must not be applied in our case as we are geared for 100 per cent exports and during 1973-74 we touched the export performance of 84 per cent against 100 per cent exports of our production. These exports could not be maintained because of adverse conditions.

* * * * *

1.45. The Cash Assistance Review Committee, however, at their meeting held on 30th September, 1975 decided that "the existing rate of cash assistance of 15 per cent will continue upto 31st March, 1976. The minutes of the meeting do not indicate any reasons for reaching the decision which was contrary to the advice of the report of the Cost Accounts Officer as also of the considered view of the Ministry of Finance.

1.46. Enquired whether it was the practice not to record the reasons for coming to this decision, the Secretary, Ministry of Commerce, stated in evidence:—

"I would not say that. But one can infer the reasons today on the basis of the material available."

He added:

"That recommendation is based, first of all on the marginal cost figures. In the case of manufacturing units where you have a large volume of domestic production and a small export production, it is possible to work on the basis of marginal costs. But if your domestic production and export production are comparable, it will be very difficult to work on marginal costs. The Cost Accountant has shown 'nil' loss on marginal cost basis. Expenditure on Factory, Salaries, factory overheads and administrative overheads has been shown at 'nil'.

But if these are taken into consideration, there is a loss of 10 per cent. It assumes that none of this is for export. That is valid only when export production is a small portion of the total production. I am only inferring that these points must have weighed with the Committee. Secondly, on

the question of interest on machinery, the cost accounts officer himself has stated that a further amount of Rs. 360 per ton should be included. This Committee also included very high level representatives from the Ministry of Finance."

Ban on the Export of Bengal Deshi vis-a-vis rise in the Export of Absorbent Cotton

1.47. According to the Audit para, in view of the tight situation prevailing at the commencement of the 1976-77 cotton season (September-August) Government did not permit the export of Bengal Deshi during that season. As a result, out of the total exports of 93 lakh kgs. of Bengal Deshi during the financial year 1976-77, the exports during September, 1976 to March, 1977 were only 2.73 lakh kgs. On the other hand the exports of absorbent cotton during this period registered an unprecedented increase. Thus, as against the export of 1.53 lakh kgs. (f.o.b. value Rs. 15.64 lakhs) in the first half of the financial year 1976-77 (April-September, 1976) as much as 1374 lakh kgs. (f.o.b. value Rs. 197.83 lakhs) were exported in the second half of that year when the export of Bengal Deshi was not permitted.

1.48. The Committee enquired whether it could not be a case of malpractices. In reply, the Secretary, Ministry of Commerce deposited in evidence:—

"May I draw your attention to the earlier figures of 1967-68 to 1975-76 of absorbent cotton. It is there on page 26 of the audit report. Kindly see the difference between 1972-73 and 1973-74. There has been a six-fold rise. First these changes may not always be attributable to our export policy of Bengal Deshi. Even legitimately supposing a foreign manufacturer has been importing a part of Bengal Deshi for manufacture of absorbent cotton he may start taking semi-processed goods for further processing."

He added:

"I am told that since 1973-74, there has been a spurt in exports to Japan. I have not been able to make a study of what happens in Japan of this cotton, but one possible explanation which seems to be apparent is that if there is a manufacturer who has been importing Bengal Deshi cotton for processing it to absorbent cotton, and when he

could not import Bengal Deshi in that form, he must get it in the semi-processed form. For example, we stopped the export of raw skins and started export of semi-processed goods. Later on, we would switch to processed goods. This is a vertical escalation which has happened in various other commodities also."

1.49. In this context the Ministry were asked as to when the export of Bengal Deshi was not permitted from the cotton season commencing from September, 1976, why was the question of continuance of cash assistance on export of absorbent cotton not considered simultaneously and whether it was prudent to encourage export of absorbent cotton by continuing to pay cash assistance on it, when not only the export of its raw material was not permitted but also the raw material was in fact being imported with free foreign exchange. In reply, the Ministry have stated as follows:—

"While it is true that the decision to withdraw cash assistance on absorbent cotton was not taken simultaneously with the decision not to issue allocation certificate for export of Bengal Deshi for the cotton season September, 1976 to August, 1977 it may be mentioned that the matter was in fact reviewed subsequently and the cash assistance was withdrawn in July, 1977."

1.50. Elaborating the point during evidence, the Secretary of the Ministry of Commerce stated:-

"So far as absorbent cotton is concerned I may say that there has never been any question of banning the export of absorbent cotton. In fact, the emphasis has been that this being a value added product efforts should be made to improve its export performance. That is why as early as 1967 cash assistance for export of absorbent cotton at 15 per cent of f.o.b. was given. There have been representations from time to time for an increase in this percentage. A review was undertaken in 1975 when it was decided to continue the cash assistance of 15 per cent. This 15 per cent cash assistance continued till July, 1977 and thereafter it was withdrawn. The reason for withdrawal of cash assistance was that since this consumed what was then a scarce commodity, viz. Bengal Deshi there was no reason why we should take special steps to promote this particular item. At the same time it was made clear that there was no question of banning its export. As

regards Bengal Deshi cotton it has been under support from time to time and in terms of the Export control Order which came into effect in 1977 it was put under OGL. In 1976-77 in view of the fall in cotton production no further quota was allowed by the Textile Commissioner. There has been a recent change in policy when in June, 1978 a quota of 25,000 bales was allowed. So, I may make it clear that banning is indirect through quotas."

**F.O.B. Realisation of Bengal Deshi *vis-a-vis* Absorbent cotton:
Role of Customs**

1.51. Pointing out that the f.o.b. value realisation of Bengal Deshi was Rs. 16.36 per kg. during January, 1977 while that of absorbent cotton was Rs. 13.42 per kg. only, the Committee enquired whether it would not have been better to export raw Bengal Deshi rather than allowing export of processed material with cash assistance. In reply, the Commerce Secretary stated in-evidence:

"If you ignore the vagaries in price of international cotton, the f.o.b. realisation on Bengal Deshi would have been very much less than on absorbent cotton. There has been a very definite value addition on export of absorbent cotton, even in uncarded form."

1.52. Since the Customs are conversant with export and import prices, and are expected to keep a watch on the variation in prices, the Committee desired to know whether in this case, the Customs had at any time informed Government of the higher prices of cotton so that cash subsidy on export of absorbent cotton could be disallowed. In reply, the Member (Customs), Ministry of Finance, stated in evidence:

"That is not the function of the Customs Department."

1.53. Asked to state that at what point of time or stage did the Ministry start thinking in terms of reviewing the level of Cash Assistance, the Secretary, Ministry of Commerce, replied:

"I do not know whether there is any system where every month, every two month export prices or import prices are checked up (and) there is a review of cash assistance. It is to be kept on stable basis. It may be that in some cases, it is overpitched and in certain other cases, it may be under-pitched."

Export of absorbent cotton not conforming to pharmacopoeial standards.

1.54. Since the Audit para states that cash assistance was allowed for export of absorbent cotton not fully conforming to the pharmacopoeial requirements, on the points of carding, sterilisation, moisture proof packing etc., the Committee enquired whether it was the intention of Government right from 1967 when cash assistance was introduced for export of absorbent cotton that it was to be admissible on export of absorbent cotton not fully conforming to pharmacopoeial requirements. In a note furnished to the Committee, the Ministry of Commerce, stated:—

“When cash assistance of 15 per cent of the f.o.b. value of absorbent cotton wool was introduced on 1st September, 1967, the exports of drugs and pharmaceuticals had been eligible for 20 per cent cash assistance apart from 20 per cent replenishment. Surgical dressings under which category absorbent cotton wool is included, are subjects of monograph of BPC. The fact that absorbent cotton wool was separately listed as a ‘BB’ item instead of under B.11.1 (under which surgical dressings were classified) would indicate that the Government’s intention while admitting cash assistance against the export of absorbent cotton wool was to treat the item on a different footing. It is also to be noted that the assistance made available against the export of absorbent cotton wool was less than that would be admissible for drugs and pharmaceuticals. It may also be stated that the cash assistance schedule describes the item as ‘Absorbent Cotton Wool’ and not as ‘Absorbent cotton wool IP|BP’ or not even ‘absorbent cotton wool’ conforming to pharmacopoeial specifications.”

It may also be mentioned that the cost study undertaken by the Cost Accounts Branch of the Ministry of Finance was also in regard to absorbent cotton wool uncarded and the decision taken by the Cash Assistance Review Committee was on the basis of the aforesaid study.

Issue of carding was specifically considered by the Local Classification Committee at Bombay in January, 1974, and the Head Quarters Classification Committee in December, 1974, and a decision was taken that absorbent cotton for which cash assistance was admissible could be carded or uncarded. The Local Classification Committee’s decision

is applicable until such time it is confirmed or revised by the Head Quarters Classification Committee. In the event of confirmation, it becomes applicable uniformly all over the ports."

1.55. During evidence, the Chief Controller of Imports and Exports stated in this connection:—

"Whenever any new item is presented for classification purposes or any doubt about classification in respect of a particular document is presented for export, then at each port office there is what is called a local classification committee consisting of the local officers export promotion councils, etc. They take a decision which is applicable to the particular port immediately and then those minutes are sent to HQ where the HQ Committee takes into account all the minutes of the four regional committees; either they confirm it or they do not confirm it or confirm it with some changes and that becomes binding, but only from the date on which it is issued. In this particular case, the consignments were presented with the words 'absorbent cotton uncarded made out of 100 per cent Bengal Desi'. This came up before the Bombay Classification Committee on 10th January 1974. The dates of the consignment were 8-9-1973 and 4-9-1973. Since it was not in conformity with the definition 'absorbent cotton wool' it came before the local classification committee which took the decision that since the British Pharmacopoeia did not use the word wool, it could be classified as 'absorbent cotton uncarded according to BP'. It came to the HQ classification committee which confirmed it in December, 1974 and the minutes of the meeting were circulated as a matter of course to all the port officers for further guidance."

1.56. Since there was an unprecedented spurt in the export of absorbent cotton during the cotton season 1976-77, when export of its raw-material was not permitted, the Committee desired to know whether all the exported item was fully conforming to pharmacopoeial standards. The Commerce Secretary stated in evidence:

"I do not think there is any strong ground to believe that under the guise of absorbent cotton non-absorbent cotton has gone. The absorbent cotton can go either in carded form or in an uncarded form but there is no ground for suspicion that non-absorbent cotton has gone as absorbent cotton."

If that has gone, then, it is a mal-practice. The real distinction is not between absorbent cotton and non-absorbent cotton but between carded absorbent cotton and uncarded absorbent cotton."

1.57. Explaining the process of carding, the Textile Commissioner stated in evidence:

"Carding is a mechanical process whereby the fibres are straightened and made a little fluffy. The other tests like the alkali test are chemical tests. Bengal Deshi cotton in this particular case is chemically treated and made absorbent, and then it conforms to all the pharmacopoeial standards. Then it is made to pass through the carding machine which straightens the fibres and makes it a little fluffy. Carding is very distinct from the other chemical processes. So, cotton may conform to other pharmacopoeial standards except carding."

1.58. The Drugs Controller of India however admitted that "this uncarded cotton would not conform to the test of sterilisation". He added that "so far as the test reports are concerned, it did conform to the test of absorbency, it did sink within the specified time."

1.59. Enquired whether it could still be called absorbent cotton even if it was not sterilised, the representative of the Ministry stated:—

"It is not required. You can confirm it from the Drugs Controller."

The Drugs Controller stated in this connection:—

"There are different specifications in the pharmacopoeia. The Indian pharmacopoeia require that absorbent cotton has to be sterilised when it is made. If it is in large packings, then it has to be labelled. "To be sterilised before use", because in one pound packing you cannot guarantee sterility. So far as small packing is concerned, about four ounces packing, it has to be labelled as "sterile". In the British pharmaceutical Codex, it has been specified that if the material is supplied sterile, it should be labelled accordingly by which one could infer and you probably can have absorbent cotton which may not be sterile."

1.60. Giving a brief background of the preparation of absorbent
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cotton, the Drugs Controller of India further stated in evidence:

“Absorbent cotton has been defined in the Indian pharmacopoeia, this definition is more or less the same in other pharmacopoeia. It is, described as consisting of epidermal trichomes of the seeds of cultivated species of cotton, the trichomes removed from the seeds free of fatty matter by treatment with alkali, bleached with chlorinated soda or chlorinated lime, washed, combed to form fleecy white mass of soft white filaments consisting almost entirely of cellulose. The main absorbent cotton wool is really raw cotton wool which has been treated with lime or alkali to remove its wax. Subsequently it has been bleached, washed and combed and carded to form fleecy white mass of soft white filaments. It acquires absorbent properties which is what is required for medicinal use.”

1.61. The definitions of absorbent cotton according to British Pharmaceutical Codex, Japan Pharmacopoeia and the Indian pharmacopoeia, furnished by the Ministry at the instance of the Committee are reproduced at Appendix II.

1.62. Dealing with the important pharmacopoeial requirements in the British, Indian and Japan pharmacopoeia, the Ministry have, in a note,* stated as follows:—

“Exports are made according to the requirements of foreign buyers. Therefore, the exported product has to comply with the requirements of the pharmacopoeia of the importing country. Various pharmacopoeia describe the item in different terms. For example, the British Pharmaceutical Codex and the Indian Pharmacopoeia specifically mention that the item should be carded. There is no direct mention of carding being an essential requirement in the Japanese pharmacopoeia.”

1.63. Enquired as to what were the requirements laid down by the Cotton Technological Research Laboratory to distinguish raw cotton and absorbent cotton, the Ministry of Commerce have, in a note stated:

“The difference between raw cotton, bleached cotton and absorbent cotton would be very clear from the clarifica-

*Not vetted n Audit.

tions given by the Cotton Technological Research Laboratory, which is reproduced below:—

“Raw cotton would mean fibres separated from cotton seed or kapas by the ginning process which can be used for converting it into yarn. Bleached cotton means cotton that has been given bleaching treatment essential to make it appear white. However, absorbent cotton which is used for surgical purpose has to satisfy certain specifications with respect to particulars such as absorbency, PH, ash content, fibre strength, convolution, etc. Mere bleaching will not impart these properties to raw cotton. Raw cotton has to undergo (i) processing through blow room to remove most of the impurities followed by (ii) alkali treatment and eventually (iii) bleaching treatment to impart it the properties of absorbent cotton. The absorbent cotton thus prepared, carded or uncarded, cannot be spun, due to the removal of waxy cuticle and the chemical treatment also adversely affects the fibre strength.”

1.64. In reply to a point whether it would, be possible to distinguish absorbent cotton from raw-cotton by visual inspection alone, the Ministry have stated:

“The Cotton Technological Research Laboratory has clearly mentioned by visual inspection it is not possible for a person to conclude whether a particular sample of cotton is absorbent or not.”

1.65. The Committee desired to know whether it was examined as the extent of value addition to Bengal Deshi (i) when it was rendered absorbent fully conforming to pharmacopoeial standards and (ii) when it was made uncarded absorbent cotton not fulfilling requirements of sterilisation, moisture proof packing, test of sinkability etc. In a note submitted to the Committee, the Ministry of Commerce stated:—

“It was not examined as to what would be, the exact value to be added to Bengal Deshi if it is rendered (i) absorbent cotton conforming completely to the pharmacopoeial standards, (ii) uncarded absorbent cotton.”

1.66. Explaining the extent of value addition to absorbent cotton as compared to its raw material, on a rough calculation, the Textile

Commissioner of India, stated in evidence:—

“Normally raw material is cheaper than absorbent cotton. The price of Bengal Deshi Cotton is much less, almost fifty per cent of the price of absorbent cotton. In 1975-76 when we stopped the export for reasons mentioned by the Commerce Secretary, some distortions were noticed, namely the price of Bengal Deshi went up substantially and in one or two months it was slightly higher than that of the absorbent cotton. This phenomenon occurred subsequent to the banning of exports. Japan is our regular buyer, 75—80 per cent of our Bengal Deshi goes to them. Naturally the demand for absorbent cotton was more and exports went up. Consequently even the raw material fetched a higher price but we find that the price of Bengal Deshi has been almost constant, 5 to 6 or 7 per kg. Normally the price of absorbent cotton is 50—60 per cent higher than the price of raw material”.

1.67. The Commerce Secretary deposed during evidence in this connection:—

“I have been trying to find out, to what extent the value addition goes up, if the carding process is done. I don't have the figures, but I have discussed the matter both with the Textile Commissioner and the Textile Export Promotion Council. I am told that there is no significant addition on account of carding. There is another difficulty. Apparently, carded absorbent cotton in small packs, becomes fluffy. It takes up more volume. Therefore, you have to book more freight. It is not always that the value goes up 3 times. You have to pay a higher rate; unless you get a much higher f.o.b. realization rate, you may not be able to export it over long distances. That is why it is customary for exporters here to export absorbent cotton in uncarded form. Even then, there is a substantial addition. There has been a substantial value addition on this. The Cost Accountant's figure said that there was no loss on marginal costs and there was a 10% loss on total costs. On marginal cost, no part of the overheads has been shown against export production. Export production is a very substantial part of the total production.”

1.68. The Committee enquired that if the export of absorbent cotton was allowed because it got value added and got a better price

and cash assistance was also granted to increase its export potential, why semi-processed material was allowed to be sent in the name of 'absorbent cotton'. The Secretary, Ministry of Commerce deposed in evidence:

"It is not as if in the export policy a specific decision was taken that only absorbent cotton of pharmacopoeial standards should be allowed to be exported or should be given export assistance. In fact, I have gone through the Cost Accountant's report of 1975 on the basis of which earlier cash assistance was given. I find that the very sample on the basis of which the costing was done was uncarded cotton. The policy decision has apparently been that absorbent cotton can go either in the fully processed form conforming to pharmacopoeial standards or in the semi-processed form where it cannot be misused for fibre purposes but can be reprocessed."

He added:

"I think a distinction will have to be drawn. There is no question of promoting exports of non-absorbent cotton at all; but it is only absorbent cotton, whether in the carded form or uncarded form."

He further continued:

"Absorbent cotton was a pharmacopoeial product for which we wanted to develop an export market, and we have developed an export market: exports have risen very sharply and there has been substantial foreign exchange earnings. Therefore, the development of exports of absorbent cotton has been fully justified."

1.69. Asked whether Government would encourage export of any other material if it has value added, the Secretary stated in evidence:

"I think a decision will have to be taken on merits of each case, and it would have to be taken at different time. In this case, once cotton lost its capacity for being used as a fibre for purposes of textiles, it became available for use as absorbent cotton. It is subjected to another manufacturing process here and is sent in absolutely small packets which can go directly to the surgeon, if they

insist on that. But there are some difficulties in that. The freight rates are high and there may be import duty on finished products."

1.70. Since the Audit Para states that in July, 1977, the DGCIS, Calcutta while pursuing certain points raised by Audit, was informed by Customs authorities that the exported item did not conform to some of the requirements of Indian and British pharmacopoeia, the Committee enquired during evidence that at what stage uncarded absorbent cotton got the benefit of cash assistance. In reply, the Director, General, Commercial Intelligence and Statistics, Calcutta stated:—

"We had received clarification from the Collector of Customs based on the classification of the absorbent cotton which was mentioned. Since it had led to some confusion. It was referred to us by the Senior Deputy Accountant General, CWM and he had enquired about the total volume of exports under a particular classification. In this respect, I have replied to him that I will not be able to clarify the matter unless I refer the matter to the Collector, Customs. Obviously as a statistical body we are compiling statistics from the daily trade returns received from the Customs and in this particular case we found that the vast majority of the export went from Bombay and, therefore we had to identify what exactly was the reason which led to the confusion."

1.71. Asked whether he could not conduct some enquiry on that basis, the witness added:—

"That was subsequently sought to be confirmed by enquiries and so far as the classification is concerned, we found that the largest majority was specified as absorbent cotton and absorbent cotton wool."

1.72. Enquired whether it would mean that the majority of the exported item specified the standards of absorbent cotton, the witness deposed:—

"As a compiler of statistics I would not be able to vouch for its composition for comment on the standard test or anything else of the physical aspects."

“Also it made the use of words like wadding and articles of wadding cotton. Therefore, subsequently, we found out from the Daily Trade Returns of Customs invoices that the majority of the cases were invoiced having absorbent cotton.”

1.73. Enquired whether wadding cotton also attracted cash assistance, the Chief Controller of Imports and Exports replied:—

“Wadding cotton did not carry cash assistance at any time.”

1.74. Since the entry ‘Wadding and articles of Wadding’ was an omnibus entry covering wadding and articles of wadding (on which no cash assistance was available) as also absorbent cotton (on which cash assistance was available), the witness was asked whether, under these circumstances, the customs authorities allowed export of wadding cotton also with cash assistance.

He replied:—

“No, Sir, Under the same index classification, there are various other items also which go together some of which get assistance and some do not get assistance. Let us take the case of pumps, engines, electric motors, etc. Cash assistance is available for certain types of pumps; is not available for others. So far as the compilation of statistics is concerned, all of them are clubbed together. It does not mean that every item gets cash assistance.

Secondly, merely because on p. 29 of the Audit Report, the heading given is “Absorbent cotton” below a code No. is given, it does not mean that all the items shown under the code No. are absorbent cotton. It is only a part of it.”

The Commerce Secretary added in this context:

“As he said, for the purpose of compilation of statistics, there was no separate entry of absorbent cotton. This was included in that category till 1977, till it was changed.”

1.75. The Committee desired to have the figures of exports of absorbent cotton uncarded during the last ten years. In a note furnished to them, the Ministry of Commerce stated:

“Absorbent Cotton Wool whether carded or uncarded was not separately classified as such in the Revised Indian Trade

Classification, which was in operation from 1965 until 31st March, 1977. The item was, however, included under the head "Wadding and articles of Wadding, e.g. absorbent cotton sterile or not", R.I.T.C. Code No. 658.501."

1.76. The statement indicating the details of exports of "wadding and articles of wadding" (absorbent cotton etc.) and Bengal Deshi raw cotton and their unit values during each of the years 1967-68 to 1976-77, furnished by the Ministry, in this connection is reproduced below:-

Statement showing Statistics of Exports of Wadding and Articles of Wadding (Absorbent Cotton, etc.) and Bengal Deshi Raw Cotton and Their Unit values during each of the years 1967-68 to 1976-77

Year	Wadding and articles of wadding (e.g., absorbent cotton: sterile or not)			Raw Cotton. Bengal Deshi		
	Quantity Kg.	Value Rs.	Unit value Rs/kg.	Quantity Tons	Value Rs.	Unit Value Rs./kg
1967-68	45,555	287,158	6.30	44,631	14,74,70,788	3.30
1968-69	70,022	4,20,394	6.00	28,375	4,10,49,111	3.91
1969-70	45,146	2,97,764	6.60	35,963	14,69,04,364	4.08
1970-71	56,514	3,64,267	6.45	32,122	13,95,37,969	4.34
1971-72	3,157	24,897	7.89	32,124	16,64,26,702	5.18
1972-73	107,887	8,59,557	7.97	37,994	21,56,72,941	5.67
1973-74	611,570	63,65,496	10.41	54,535	31,93,17,370	5.86
1974-75	654,199	76,31,382	11.67	19,767	14,97,70,780	7.58
1975-76	83,448	10,06,556	12.06	36,003	25,30,86,168	7.03
1976-77	1,527,441	2,13,47,223	13.98	9,300	6,92,64,916	7.45

Export of uncarded cotton in bales as absorbent cotton: Role of Bombay Customs

1.77. The Audit para states that the Customs authorities in Bombay had informed Audit in June, 1977 that for some time some exporters, particularly firm 'A' (M/s. Lavino Kapur Pvt. Ltd., Bombay) had been exporting uncarded cotton in bales of 125 lbs. as absorbent cotton wool, BP and as the British Pharmacopoeia does not recognise uncarded cotton wool and requires these to be in fleecy masses, the customs House had some time back reviewed this practice and disallowed shipment under that description. Shipment was, however, made as "uncarded cotton rendered absorbent" and duty of Rs. 700/- per tonne was being charged, as Bengal Deshi cotton, w.e.f 11th May, 1977.

1.78. It further states that on 6th October, 1977, the Collector of Customs, Bombay issued a Public Notice notifying that exports of uncarded cotton rendered absorbent would be permitted on declaration in the shipping bill as "absorbent cotton uncarded but otherwise conforming to pharmacopoeial grade/specifications" and such exports were allowed without payment of duty, provided the exporters produced test reports confirming that the cotton was conforming to pharmacopoeial specifications in all respects except 'carding'. Yet another notice was issued by the Collector of Customs on 21st November, 1977 stating that exports would be permitted free of export duty on provisional assessment, pending a final decision whether duty would be attracted.

1.79. Asked to explain the basis on which export of uncarded cotton was allowed to get cash assistance, the Collector of Customs, Bombay, stated in evidence:—

"One was about nomenclature. The other was non-conformity with Pharmacopoeial specifications in its entirety. The third was about packing. If you want I can elaborate on these points. I can clarify this.

Sometime in September 1976 this point arose. It arose at a somewhat lower level, at the level of Asst. Collector of Customs. When he reviewed that decision he continued the practice. There were some laboratory tests done in Manchester Chamber of Commerce and these were produced and these to some extent confused them. They did not go into the details of the Pharmacopoeial specifications. Otherwise it would have been corrected in September,

1976, itself. When it came out in a newspaper in February, 1977, suggesting certain misuse of the facilities, we started this investigation at the level of the Collector. That led to the decision of March, 1977."

1.80. In this connections, Audit have informed the Committee as under:—

"The draft audit para was sent to the Ministry in November, 1977. In February, of 1978, Government sent to Audit a copy of the minutes of the Inter-Ministerial meeting held on the 25th January, 1978 in the Ministry of Commerce to discuss various problems relating to export of absorbent cotton. The following points emerged from the meeting:

- (i) It was explained that the Collector Customs had since February|March, 1977, held up some consignments of absorbent cotton on the apprehensions that raw cotton was being exported in the guise of absorbent cotton and that he subsequently allowed exports by levying an export duty of Rs. 700 per tonne. On a clarification being given by the Ministry that it was the policy of the Government to allow exports of uncarded absorbent cotton, otherwise conforming to pharmacopoeial standards, the Collector of Customs issued a public notice on October 6, 1977 discontinuing charging of the export duty but obtaining a letter of guarantee from the exporters to the effect that in case any duty becomes leviable on such consignments, the exporters would have to pay the same.
- (ii) In an earlier Inter-ministerial Meeting held in the Ministry in December, 1977, the Textile Commissioner had been requested to give definition of raw cotton so that the difficulty in the way of export of the absorbent cotton could be solved. It was stated that the following definition emerged in that meeting:

"Raw cotton includes all cotton except (a) absorbent cotton of pharmacopoeial standards and (b) absorbent cotton uncarded, but otherwise conforming to pharmacopoeial standards."
- (iii) the exports are being allowed by the Collector of Customs on the basis of "no objection" certificates given

by the Assistant Drugs Controller (India) attached to the Customs House. These certificates are reportedly given on the basis of shipping documents and attached test reports by analytical chemists approved by them.

- (iv) It was explained that the consignments for export had to conform to any of the internationally recognised pharmacopoeial standards. In the Japanese pharmacopoeial, carding was not an essential condition.

It was also proposed in the meeting that:

- (i) the Ministry of Finance should expedite their decision about exemption of Absorbent cotton from the export duty for future as well as past;
- (ii) the Deputy Drugs Controller (India) should send his confirmation to the effect that items exported as uncarded cotton rendered absorbent complied with pharmacopoeial requirements except carding; and
- (iii) Ministry of Industry should expedite with the CCIE to issue instructions that raw cotton and absorbent cotton are two different categories and therefore should be treated as such under the Export Trade Control order of C.C.I.E."

1.81. The Member (Customs), Ministry of Finance explained in this connection:—

"At one stage, a point was made that Customs started paying cash assistance. It is not so. Customs did not come into the picture either for determination or assessment or payment of cash assistance. This is my submission so far as this point is concerned. Customs will come into the picture for purposes of levy of duty because the second Schedule to the Tariff, Item 16 makes 'raw cotton' liable to export duty. This is the point which I wished to bring to your notice."

He added:—

"As per the Second Schedule, we have got to find out whether it is raw cotton or not raw cotton. It is possible, even if cotton is absorbent, it is still 'raw'. Whether cotton is absorbent or not, it can be raw. Now, as per their understanding, if cotton had been carded, it probably gets out of the category of raw cotton, and therefore it ceases to be subject to duty. This is what we have referred to some-

time ago. There is one scheme of the Commerce Ministry which says such and such things would be entitled to cash assistance. They may lay down certain criteria from time to time. They have laid down such things. That does not mean, that takes this item completely out of the category of raw cotton. Whether it conforms to their requirements or not, yet it may be raw cotton. It still remains raw cotton. Now, since we ourselves are still not clear, I might submit this subject is presently under examination by the Ministry of Law. The trade has represented on this."

1.82. Enquired whether it would not mean that the question of cash assistance should arise only when export duty is not charged, the witness responded:

"No, Sir, the two are entirely different. There is nothing to prevent the Government from arriving at a decision that raw cotton Bengal Deshi would be entitled to cash assistance. I would go along with you when it is suggested that it is an anomalous situation that you charge export duty on the one hand and give cash assistance on the other."

1.83. Enquired whether there were any instances where export duty was charged and at the same time cash assistance was also granted, the witness stated:

"The example I can think of is the export of rice bran. In the case of export rice bran, the oil is extracted from it and the cake extract is exported. According to us, that was chargeable to duty and yet, probably, under the Government of India's scheme for cash assistance, that was entitled to or eligible for cash assistance. But the duty was abolished."

1.84. Enquired whether it would not be absurd to charged duty and give cash assistance on an item at the same time, the Secretary, Ministry of Commerce desposed in evidence:

"The whole question will have to be harmonised. In this case, in March, 1978, the duty was abolished."

He added:

"Apart from the question of cash assistance there was the whole question of export duty itself. There was ban on

Bengal Deshi from September, 1976. No raw cotton could go out of this country. Let alone whether the duty is paid on it or not. About the tariff classification, Customs took the view that duty was leviable. The matter was referred to the Law Ministry whether the classification was correct or not. It is a sure anomaly when one Ministry takes the position of giving cash assistance and the other of levying export duty on it."

The Secretary, further stated:

"If it arises at all it can only arise as a result of different interpretations put by different departments and when such anomalous position results as a result of such interpretations, Government will have to take steps to harmonise the situation. In this case customs took the view that uncarded absorbent cotton should be treated as something separate from Bengal Deshi for export control purposes and should be permitted for export purposes otherwise they would not have allowed export because it was banned it was treated as different from Bengal Deshi for the purpose of export control and export policy; for the purpose of levying duty, it was deemed to fall under the same category as raw cotton. That is why a situation arose, where on the one hand they were levying duty on absorbent uncarded cotton, on the other hand for export control, export policy purposes Commerce Ministry continued to treat it as any other common absorbent cotton. These two had to be harmonised and it was harmonised in the inter-ministerial meeting which was held and uncarded absorbent cotton has been specifically exempted from customs duty; there is no longer any anomaly; there is no duty on uncarded absorbent cotton. Cash assistance has been withdrawn for both carded and uncarded on a different basis. The export policy does not involve cash assistance alone. It includes both carded and uncarded. But the customs for the purpose of tariff took Bengal Deshi proper plus uncarded absorbent cotton into one category and carded absorbent cotton into other category. This anomaly was resolved by a specific exemption of uncarded absorbent cotton."

1.85. The Committee desired to know why, if under the Brussels Tariff Nomenclature, uncarded absorbent cotton was covered under raw cotton for levy of customs duty, customs duty was not levied

on such exports prior to 11-5-1977. In a note furnished to them, the Ministry of Commerce stated:

“The Customs Co-operation Council Nomenclature (viz. Brussels Nomenclature) is not applicable in respect of Second Schedule Export Tariff to the Customs Tariff Act, 1975 (51 of 1975). The scope of the terms “Cotton, not carded or combed” as appearing under the Heading No. 55.01 of Customs Co-operation Council Nomenclature was cited by Bombay Custom House for purpose of arriving at the meaning of the word “Raw Cotton” as adopted in the International Trade, particularly as that definition applied in the importing countries. There have been no exports of uncarded absorbent cotton from any port except Bombay and Calcutta. The Bombay Custom House had started levying export duty under Heading No. 16 of second Schedule to the Customs Tariff Act, 1975 on the export of absorbent cotton uncarded made on or after 21-3-1977 (and not after 11-5-1977 as stated above).”

1.86. During evidence, the Committee sought clarification on the point that according to pharmacopoeial standards, uncarded cotton was not absorbent cotton wool *per se* and for tariff purposes, it was raw cotton according to Brussels Tariff Classification whereas it appeared that right from the beginning, uncarded absorbent cotton seemed to have been deemed to be absorbent cotton conforming to pharmacopoeial standards thereby giving cash assistance to its export. In reply, the Commerce Secretary deposed:

“Let alone for cash assistance. It could not be permitted to be exported if Customs Tariff classification was accepted for export purposes.”

1.87. When pointed out that the Customs took objection because they considered Bengal Deshi and uncarded absorbent cotton the same, the witness replied:

“The Customs have two fold duty; one of levying duty and the other of enforcing our Exports Control Order when a commodity is offered for export. Suppose animal exports are banned if they do not conform to the specifications, naturally if that comes to the Customs House, they would stop it. As correctly pointed out, the two requirements may not be the same. But, still they allowed the export

like any other absorbent cotton because the raw cotton was banned.”

1.88. Since uncarded absorbent cotton was being allowed for export without duty and with cash assistance, the Committee enquired on what authority the Bombay Customs authorities refused to export the same without export duty in 1977-78. The Member (Customs), Ministry of Finance, replied in evidence:

“Until March, 1977 there was hardly any doubt in anybody’s mind that whatever cotton was going was conforming entirely to the pharmacopoeial specifications and this was supported by the fact that the Assistant Drug Controller was giving a ‘No-objection’ Certificate, which amounted to a certification that this conforms to the pharmacopoeial requirements. The doubt arose because what had happened in early 1977 was that large quantities started going in big bales.”

“In 1977 when these things were going in bales, a question arose whether this could really be considered as raw cotton or a cotton which had reached a stage of processing where it ceased to be raw cotton. We, in the customs, were concerned only with this basic question of whether it is raw or whether it is processed or semi-manufactured without reference to the cash assistance. That is a different point altogether.

According to our understanding when the cotton is carded and bleached and cleared, it ceases to be raw cotton.”

1.89. Enquired as to who took this decision and when, the witness replied:

“The Collector of Bombay took the decision when it came to his notice through press report *Financial Express* article. He applied his mind and said: “since it is uncarded, it is raw and therefore I would charge duty.”

1.90. The Secretary, Ministry of Commerce stated in this context:

“On customs classification, they are the final authority and they took the view that for customs classification this comes under raw cotton. When that view was brought to our

notice, we became aware of this anomaly and we decided that export duty should not be levied on this segment of what they consider to be raw cotton."

1.91. Since later on exports were allowed on the basis of the test reports given by the Asstt. Drugs Controller, the Committee desired to know whether it had been verified that all through in the past, the Assistant Drugs Controller had conducted tests or had obtained test reports to the effect that the items exported complied with pharmacopoeial requirements. In a note* furnished to the Committee, the Ministry of Commerce have stated:

"Export consignments of absorbent cotton wool whether fully conforming to pharmacopoeial specifications or conforming to such specifications except in the matter of carding are referred to the Assistant Drugs Controller by the customs authorities for his opinion as to whether there is any objection to their export under the provisions of the Drugs and Cosmetics Act and the rules thereunder. Under the Drugs and Cosmetics Act, no export consignment referred to the Assistant Drugs Controller by the customs authorities is subjected to test by him. However, the exporters submit alongwith the relevant shipping bills copies of the test report from approved laboratories and the Assistant Drugs Controller verifies that such test reports confirm that the consignments covered by the shipping bills conform to the description mentioned therein, namely, that they are absorbent cotton wool of pharmacopoeial standards or absorbent cotton wool of such standards except in the matter of carding as the case may be."

Role of the Drugs Controller

1.92. The Committee desired to have a copy of the typical report given by the Asstt. Drugs Controller, clearing the consignments verified by him. In a note furnished to them, the Ministry of Commerce stated:

"Exporters of uncarded absorbent cotton were submitting to the Assistant Drugs Controller (India) alongwith the relevant shipping Bills, pre-shipment test reports on all the batches being exported showing that they conform to the specifications given in the concerned pharmacopoeial

* Not vetted in Audit.

i.e., JP|BPC, etc., in all respects except as regarding carding. The Assistant Drugs Controller (India) after scrutiny of the test reports and verifying therefrom that the export consignment conforms to the pharmacopoeial standards, except in regard to carding, used to endorse the remark 'No objection on the Shipping Bill. He was, however, not issuing any report or certificate in this regard."

1.93. In this context, the Collector of Customs, Bombay, stated in evidence:—

"In the case of exports prior to March, 1977, we have been primarily going by the Drug Certificates produced by the manufacturers and also a 'No Objection' from the Assistant Drugs Controller."

He added that "the customs have no expertise in this field."

1.94. As regards the check exercised by the Asstt. Drugs Controller, the Drugs Controller of India stated in evidence:

"Whenever consignments of drugs are exported it is not with absorbent cotton alone but with others as well the shipping bills are referred to the Assistant Drugs Controller, who is sitting in the Customs House. The shipping bills are referred to him mainly for non-objection so far as Drugs and Cosmetics Act is concerned. He is mainly concerned with the enforcement of the provisions of the Act. The Assistant Drugs Controller is there mainly to see whether it conforms to certain labelling provisions which are laid down in the Act. The Assistant Drugs Controller does not subject export consignments to any test. As you know, all drugs are subject to statutory and quality control and drugs are manufactured under a manufacturing licence and these drugs are subject to quality control. The Assistant Drugs Controller checks whether the item that is being exported conforms to certain labelling provisions, is it labelled properly, if it is a pharmacopoeial quality, is it labelled as such? Does it have the name of the manufacturer, the batch number and so forth? In the case of absorbent cotton wool, the manufacturers along with the invoice, have been giving a test report either from his own laboratory or in the case of merchant exporters from certain laboratories which have been approved by the Drugs Controller, Maharashtra

if it is in Bombay and the Assistant Drugs Controller has been checking whether the tests given in the test report are according to the pharmacopoeial specifications. No test is conducted by him and if he finds that the test report of the consignment is passing the pharmacopoeial specifications, though in certain cases, it is uncarded, he indicates his no-objection, but the consignment is labelled that it is uncarded."

1.95. Enquired whether the certificate furnished by the party was taken as final without any check, the witness stated:-

"At present, the Asstt. Drugs Controller goes mainly by the test reports."

1.96. Asked whether the Asstt. Drugs Controller will accept the manufacturers' certificate even if the customs have in their possession certain other reports showing the description given by the party as incorrect, the Drugs Controller stated:

"If a specific reference is made by the Customs, that they have doubts about this particular thing, the Asstt. Drugs Controller would check that."

He added:

"If the description has been given on the shipping bill as uncarded cotton wool which would mean that it does not comply with the IP or pharmaceutical specifications. I have a letter from the Assistant Drugs Controller stating that wherever the exporters labelled such a thing as BP, he was asked to remove reference to BP because this was uncarded cotton wool which did not conform to the IP or BP specifications."

1.97. Enquired whether the exported item under the name of uncarded absorbent cotton was fit for being used as absorbent cotton straightaway, the witness replied in the negative.

1.98. When pointed out that although in the instant case, the exported item was not good to be used for surgical purposes as understood in the pharmacopoeial, yet it was given cash assistance merely because it was not fit for spinning, the Secretary, Ministry of Commerce stated in evidence:

"So far as these consignments were concerned, some of them may have conformed to the pharmacopoeia in full in which case they must have been carded."

He added:

“Except in the matter of carding, the Asstt. Drugs Controller has checked and found that it satisfies the other tests of the pharmacopoeia mainly in relation to absorbency.”

1.99. When the Committee drew the attention of the witness that in this case, what the Asstt. Drugs Controller did was merely to check the manufacturers' label, the witness stated:-

“He does not do the test himself. He gives the certificate on the basis of the laboratory test, information in regard to which is furnished. Subsequently customs themselves referred the consignments to their laboratory for check again.”

1.100. In reply to a point as to the total amount of export duty that should have been charged on such exports made before 11-5-1977 and the amount charged after 11-5-77, the Ministry of Commerce stated in a note:

“Ministry of Finance (Department of Revenue) has informed that the Bombay Custom House are not maintaining separate figures for duty leviable, *inter alia*, on uncarded absorbent cotton. The exporters have, however, filed refund claims for duty amounting to Rs. 11,85,056.70 in respect of exports effected during the latter period. The duty leviable on a solitary consignment exported through the port of Calcutta has been reported to be Rs. 7,000/- only (not charged while allowing export).”

Provisional assessment in the instant case

1.101. As provisional assessment was made from 6-10-1977, pending a final decision on the question of export duty, the Committee desired to know the amount of provisional assessment made from this date till March 1978 when exemption from export duty was granted. In the note furnished by the Ministry, they have stated:—

“Ministry of Finance (Department of Revenue) has advised that provisional assessment was resorted to by the Bombay Custom House from 21-11-1977 (and not from 6-10-1977). However, demands were issued for shipments during the intervening period, amounting to Rs. 6,15,243/-. Amount of duty involved in provisional assessment is reported to be Rs. 2,76,861.55.”

1.102. The Committee also desired to know the action proposed to be taken by Government in respect of the duty realised on exports of uncarded absorbent cotton if exemption from export duty was not available prior to March, 1978, as per the opinion of the Law Ministry. In reply, the Member (Customs), Ministry of Finance, stated in evidence:—

“If the Law Ministry gives the opinion that despite the fact that a particular kind of processed cotton is not carded, it still gets out of the category of raw cotton, in all the cases where duty has been paid, if claims are made within six months, they will get refund in full.”

1.103. In a note subsequently furnished to the Committee, the Ministry of Commerce stated:—

“The Custom House, Bombay had issued less charge demands in terms of section 28 of the Customs Act, 1962, in respect of shipments of uncarded absorbent cotton made six months prior to 21-3-1977 amounting to Rs. 8,92,171.70.

It may, however, be added that the question whether the items ‘Raw Cotton’ in the Export Schedule, covered Absorbent Cotton, uncarded, but otherwise conforming to pharmacopoeial standard, has since been examined in consultation with the Ministry of Law, who have advised that the subject goods namely “absorbent cotton, uncarded but otherwise conforming to the pharmacopoeial standards” being processed cotton, would not be covered by the term ‘Raw Cotton’ and as such no duty is liable.

Accordingly, Ministry of Finance has issued a notification on 2-9-1978, withdrawing the exemption. Suitable instructions have also been issued to all the Collector of Customs not to levy any export duty hereafter. In past cases, refund may have to be given where claims were filed in time and demands for duty short levied may have to be withdrawn.”

1.104. A copy of the advice tendered by the Ministry of Law, Justice and Company Affairs furnished at the instance of the Committee is reproduced as Appendix III

1.105. Drawing attention of the Ministry of the allegations that what was exported as absorbent cotton was mostly raw-cotton, the

Committee wanted to know the extent of export duty that would have been levied on this item from 1967-68 to 1977-78. In a note furnished to them the Ministry of Commerce stated:-

“Ministry of Finance (Department of Revenue) has informed that separate statistics of export of uncarded absorbent cotton is not being maintained by the Custom House and as such total amount of export duty that would have been levied from 1967-68 are not available. The Ministry of Law have now confirmed that no export duty is leviable on absorbent cotton wool.”

1.06. Asked to furnish information on the total amount of cash assistance paid on these exports during this period, the Ministry, in a note, stated:-

“As separate statistics of export of uncarded absorbent cotton have not been maintained, it is not possible to furnish the information asked for.”

1.107. Asked to state the amount of cash assistance paid by the Joint Chief Controller of Imports and Exports, Bombay in 1977 on uncarded cotton rendered absorbent, the Ministry of Commerce stated in a note*:-

“J.C.C.I. and E., Bombay has advised that no cash assistance was paid during 1976-77 on export to the product described as “Uncarded Cotton rendered absorbent.” However, Rs. 28.66 lakhs were paid during 1976-77 against export of item described as “absorbent cotton wool.”

1.108. Enquired about the cash assistance claims withheld and the treatment proposed to be given to these claims, the Ministry of Commerce have stated:-

“Claims of approximately Rs. 66.91 lakhs have been withheld. These claims are being examined by a team consisting of the J.C.C.I. and E. Bombay, representatives of Drugs Controller (India) and the representative of Collector of Customs, Bombay, by going into the merits of each claim with a view to decide about their admissibility or otherwise for cash assistance for the period February, 1977 to July, 1977. The team has to examine each case,

*Not vetted in Audit.

in depth, and satisfy itself after retained scrutiny of various documents that what was exported in each case/consignment was the item for which cash assistance was payable in accordance with the relevant orders in force at the material time."

In this connection, the Commerce Secretary stated in evidence:

"It is now going to the Committee. The scope of it is to verify with reference to documents etc. as to what was exported was absorbent cotton wool for which cash assistance was intended."

In a subsequent note furnished to the Committee, the Ministry of Commerce have stated:-

"The team in their third and fourth meeting held on 28th July and 3th August, 1978 respectively, considered claims for rupees sixty six lakhs and sixty four thousands and rejected them. The balance claims of Rs. 27,000/- are to be put up before the team after customs verification."

1.109. As there had been a marked improvement in the export of absorbent cotton ever since the ban on the export of Bengal Deshi, the Committee desired to know the impact of withdrawal of cash assistance on these exports w.e.f. 30th July, 1977. In a note furnished to the Committee, the Ministry of Commerce stated:-

"According to the information furnished by the Export Promotion Council, no contracts have been entered into by any exported between 30-7-77 to 30|6|1978."

1.110. Adducing the reasons for no fresh export orders after the withdrawal of cash assistance, the Ministry further stated:-

"According to the Council no fresh contracts are being entered into from August, 1977; withdrawal of cash assistance may be one of the reasons for the same. Exports of a particular commodity depends on a number of factors such as international demand, domestic surplus, availability of incentives like cash assistance, import replenishment etc. Export figures of absorbent cotton for the period July, 1977 to December, 1977 (as published by DGCIS) and from January, 1978 to July, 1978 (as compiled by the Export Promotion Council from the Daily Customs

list) are given below and will indicate the trend of export:-

<i>Month</i>	<i>Value</i>
	Rs.
July, 1977	33,03,854
August, 1977	55,72,851
September, 1977	26,39,833
October, 1977	33,33,860
November, 1977	56,16,607
December, 1977	7,19,046
January, 1978	11,69,300
February, 1978	11,19,900
March, 1978	28,03,600
April, 1978	3,40,300
May, 1978	26,96,700
June, 1978	17,71,500
July, 1978	26,52,200

It may be noted that cash assistance is available on exports against registered contracts where delivery period might extend beyond 31st July, 1977, when cash assistance was withdrawn. The effect on exports of absorbent cotton will be fully known when fresh contracts are entered into."

1.111. The Committee enquired when was the decision taken to withdraw cash assistance, when was it implemented and whether any forward contract was entered into by the firm immediately before withdrawal of cash assistance. The Secretary, Ministry of Commerce, stated in evidence that the cash assistance was withdrawn on 30th July, 1977 and a decision to this effect was taken on 8th July, 1977.

1.112. As regards the contract entered into by M/s. Lavino Kapur Pvt. Ltd. after 8th July, 1977, the Ministry of Commerce subsequently stated in a note:

"As long as the scheme of Registration of contracts is in operation, the exporters can always register their export

contracts with the Banks without obtaining prior permission to do so, and they would be entitled to benefits under the scheme. The details of the contracts registered by the firm since 8th July, 1977 are as follows:-

Regin. No.	Qty. in kg.	Value in U S. \$ C & F	Party
66/66	18,00,000	30,78,000	Sapt Ltd., Zurich.
66/67	2,30,000	4,27,800	Do.
66/68	75,000	1,38,750	Daika Menka & Co. Japan.
66/69	31,250	56,875	Do.
66/70	10,000	19,000	Comri. & Co. Japan.
66/71	75,000	1,40,250	Daika Menka & Co.
66/73	7,300	13,230	Joubert & Joubert Pvt. Ltd. Australia.
66/74	5,000	8,550	Do.
	22,33,250	38,82,455	

1.113. Enquired as to what would be the amount of cash assistance that will have to be paid to this firm by virtue of these contracts, the Ministry stated:

"Cash assistance was admissible at the rate of 15 per cent until it was withdrawn. The rate of 15 per cent has to be applied on the net f.o.b. value of actual export effected after deduction of freight, insurance, commission discount etc. So it is not possible to state accurately the amount payable against exports made under these contracts."

1.114. The Committee desired to know the reasons for the delay in implementing the decision of 8th July, 1977 to withdraw cash assistance on export of absorbent cotton till 30th July, 1977. In reply the Joint Secretary, Ministry of Commerce stated in evidence:-

"I will read out from the office file, from which it would appear that there was a genuine difficulty of interpretation of the decision taken. The note of the Commerce Secretary reads:

"I agree with AS(PK). There should be no export duty as the item exported is not raw cotton. There should be no cash assistance either in view of the scarcity of raw material in India. The need and rate of cash incentive, if any, should be gone into separately by the MDA Committee. For orders."

This is dated 2nd July. Thereafter, the Commerce Minister recorded on 8th July:

'I agree'.

Then the file came to the Additional Secretary, who marked it to Secretary, Textiles. Then extracts were taken from that file which apparently belonged to the Textile Department.

In the Export Production Department of the Commerce Ministry which deals with export of chemicals and allied products, the then Deputy Secretary recorded a note on 15th July:

'Reference order on pre-page. . . . draft letter to CBEC is put up for approval.

Regarding cash assistance, the orders are not very clear on the point as to whether it is to be withdrawn immediately or after going into the facts as desired by Commerce Secretary in his last sentence. This point may be considered and necessary action taken by the Export Assistance Section after our letter to CBEC has been issued. We may also send a copy of it to Basic Chemicals and Pharmaceuticals Export Promotion Council or write to them separately.

This is dated 15th July. It was put up to the Additional Secretary who again referred it to the Secretary, Textiles, saying: 'May kindly see before issue.' The Secretary, Textiles saw it on 15th July. He said: 'May issue.' Sawhney has separately written another letter immediately after the 21st June meeting with him: 'Probably this may not require alteration in this draft. But better check once.' Finally it came to the Under Secretary on the 19th July, and it was sent to the Export Assistance Section which put up the draft by the 26th July to their Joint Secretary. Then it was stencilled and issued on the 30th July, 1977."

1.115. Details of the contracts entered into between 8th and 30th July, 1977 furnished by the Ministry at the instance of the Committee, are reproduced below:-

Particulars of Contracts for Export of 'Absorbent Cotton Uncarded' Negotiated and Registered by the Banks between 8-7-1977 and 30-7-1977.

Contract No. and date	Dates on which offers received	Dates on which contracts were negotiated	Dates on which contracts entered into	Dates on which contracts were regd. by banks	Delivery schedule	C & F value (US \$)	Contract in which delivery schedules commenced much later than the dates of contracts	
							Date of shipment	FOB value in Rs.
1	2	3	4	5	6	7	8	9
Proforma Invoice dt. 15-7-1977 . . .	15-7-1977	15-7-1977	15-7-1977	16-7-1977	Sept/Oct. 1977	138750	3-9-77	4,10,557.94 2,04,571.97
							6-10-77	1,02,414.80 4,88,937.39
Proforma Invoice dt. 15-7-1977 . . .	15-7-1977	15-7-1977	15-7-1977	16-7-1977	Aug., 1977	56875	11-8-77	2,75,795.20 1,83,637.24
Proforma Invoice dt. 15-7-1977 . . .	15-7-1977	15-7-1977	15-7-1977	16-7-1977	Aug/Sept. 1977	19000	11-8-77	77,790.79
Proforma Invoice dt. 15-7-1977 . . .	15-7-1977	15-7-1977	15-7-1977	16-7-1977	July/Aug. Sept.1977	140250	16-8-77 3-9-77	3,94,656.04 2,06,784.56

1	2	3	4	5	6	7	8	9
Proforma Invoice dt. 15-7-1977.	15-7-1977	15-7-1977	15-7-1977	16-7-1977	Dec. 77/ Nov. 78	3078000	8-11-77 9-11-77	1,33,391. 20 3,37,838. 53
							7-12-77	2,32,976. 77
							26-11-77	2,63,610. 68
							23-12-77	1,34,214. 90
							26-12-	772,63052. 50
							10-2-78	4,68,133. 30
							27-1-78	3,14,515. 15
							14-2-78	66,869. 58
							14-2-78	2,29,467. 87
							14-2-78	1,19,555. 83
							14-2-78	64,242. 62
							14-2-78	83,028. 78
							14-2-78	80,964. 66
							31-1-78	2,34,639. 15
							10-2-78	1,25,230. 43
							31-1-78	4,77,209. 28
							18-2-78	1,83,375. 70

								18-2-78	66,269.11
								18-2-78	73,469.04
								18-2-78	4,56,156.08
								18-2-78	4,83,531.74
								18-2-78	2,33,370.86
								13-4-78	3,39,577.55
								14-4-78	2,31,108.82
								15-4-78	2,40,267.80
								15-4-78	74,426.91
								15-4-78	47,555.32
Proforma Invoice dt. 15-7-1977	.	15-7-77	15-7-77	15-7-77	16-7-77	July/Nov. 1977	4,27,800	6-8-77	5,72,436.04
								8-9-77	3,13,316.58
								3-9-77	3,14,898.69
								6-10-77	7,99,379.96
								6-10-77	3,24,639.78
								29-10-77	3,35,849.67
Order No. 544 dt. 18-7-77.	.	.	18-7-77	18-7-77	18-7-77	20-7-1977	Oct., 77	8-9-77	1,04,171.46
								9-9-77	66,108.47
							13,230		

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1.116. It would be seen from the above statement that although the contracts were entered into hurriedly one after the other on 15th and 18th July, 1977, delivery schedules ranged from July, 1977 to November, 1978. The Committee, therefore desired to know the normal delivery schedule in contracts for exports of absorbent cotton and enquired whether this unusual feature of forward deliveries was for getting the advantage of cash assistance admissible before 30th July, 1977. In reply, the Ministry of Commerce, in a note furnished to the Committee, stated:—

“Delivery schedule normally depends on the urgency with which the consignment is required by the importers and stocks readily held by the exporter or time required for manufacture by the manufacturer exporters.

The delivery period in some past contracts was up to 16 months where as for the current contracts entered into in July 1977 the delivery period ranges from 4 months to about 17 months.

We have examined two aspects of registered contracts namely (a) value involved and (b) delivery schedule. Some contracts entered into by this particular firm earlier, as per the information furnished by the Export Promotion Council, amount to (a) a value of Rs. 1,84, 57,000 entered into on 25th February, 1972 for deliveries ranging from September 1972 to December, 1973, i.e. in a period of 16 months and (b) a value of Rs. 2.29 crores entered into in April, 1977 for deliveries from October, 1977 to September, 1978, i.e. in a period of 12 months. The present contracts entered into in July 1977 are for a value of Rs. 3.29 crores for deliveries ranging from 2 months to 16 months.”

1.117. Replying to the question as to in what respects are the contracts entered into in a short period before withdrawal of cash assistance, affecting the exports of ‘Bengal Deshi’, now that its exports are permitted, the Ministry have in a written note stated:

“These contracts were registered between 8th July, 1977 to 30th July, 1977 when there was no allocation certificate given by the Textile Commissioner for export of Bengal Deshi Cotton. Bengal Deshi cotton was allowed for exports in June 1978 against quota of 2500 bales through Cotton Corporation of India. Export effected so far by Cotton Corporation of India is 3221 bales.”

1.118. The Committee learnt that a contract was entered into by M/s. Lavino Kapur Pvt. Ltd. on 15th July, 1977 for a value of US \$30,78,000 and again for another one of value of US \$4,27,800 by telex message. Enquired about the circumstances under which these contracts were entered into, the Commerce Secretary deposed in evidence:—

“In anticipation of this possible reduction of export duty and in order to ensure that they continue to get cash assistance, they managed to get it.”

In this context, the Chief Controller of Imports & Exports stated in evidence:—

“Whenever we change the rate of cash assistance, as a matter of policy, the procedure in force is that we give 3 months’ notice to all the exporters.”

1.119. Enquired whether this is a cushion for entering into a contract, contrary to Governments’ decision, the witness added:—

“The amendment or alteration may be made applicable 3 months after the notification; but in this case, it was made applicable from the 30th July, instantaneously.”

1.120. Asked whether this three months’ period is supposed to give an opportunity to enter into fresh contracts, the witness replied:—

“It is not possible, under normal circumstances, for a person to enter into a fresh contract and execute it within 3 months.”

1.121. The Committee desired to know under what rule this three months’ period was allowed to the exporters. In a note subsequently furnished to the Committee, the Ministry of Commerce stated:—

“In pursuance of the decision taken by the Cabinet Committee on exports in the latter half of 1975, an inter-ministerial committee under the Chairmanship of Commerce Secretary was set up on 6th November, 1975, to undertake a review of the Import Policy particularly the registered exporters policy in order to strengthen the production base for exports and to provide necessary incentives for increasing exports and for reorganising the scheme of

cash assistance as an effective export promotion measure. One of the recommendations made by this Committee was that if the existing rate of cash assistance on any commodity should be reduced or withdrawn, there should be at least three months' notice before the change becomes effective. The above recommendation of the Committee was considered by the Cabinet Committee on Exports and approved. In pursuance of the above decision, whenever an existing rate of cash assistance is reduced or withdrawn the decision is made effective three months after the issue of the orders.

However, in some exceptional cases where this Ministry was of the view that giving three months' notice to the exporters before reduction or withdrawal of cash assistance is not justified for any particular reason, the decisions have been implemented without giving the prescribed period of notice. No formal instructions have been issued by the Ministry about the requirement of giving three months notice before the existing cash assistance rate is withdrawn or reduced. This policy is kept in view while issuing orders in each case of reduction or abolition of cash assistance.

The protection of cash assistance was available at the relevant time, on contracts executed during the three months notice period. However, the notice period was not allowed in this particular case and no notice was given before withdrawing the cash assistance on absorbent cotton."

1.122. Since the Committee noted from Audit paragraph that the international prices of cotton were much more than its internal price, during the second half of the financial year 1976-77, they enquired why the invoices of the exported item were not checked by the customs authorities. In reply, the Member (Customs), Ministry of Finance, stated in evidence:—

"The customs are supposed to check things in a great detail. If the duties are specific, even then the question of checking was important. Normally, in respect of this, they go by the contracts which are firm contracts where letters of credit have been opened. Where letters of credit are there, normally, there is no suspicion. As regards your query that the price of raw material might have gone up,

this kind of thing happens particularly in the case of a highly speculative item like cotton. But for the duration of the letter of credit which has been opened, he will have to confirm to this price whether he has to sell it at a loss. If there is a cash assistance, then we do take cash assistance quantum into account and if the price is lower, the lower prices are accepted under the law."

1.123. Enquired whether any fresh letter of credit was opened by M/s. Lavino Kapur Pvt. Ltd. during this period, the Ministry of Commerce stated in a note:—

"The Basic Chemicals, Pharmaceuticals and Cosmetics Export Promotion Council, Bombay, has informed that no fresh letters of credit have been opened in favour of the firm during October, 1976 to March, 1977."

1.124. As regards the procedure for entering into contracts, the Chief Controller of Imports & Exports stated in evidence:—

"After a contract has been entered into, it has to be registered with the bank and communicated directly to the Joint Chief Controller concerned. That is the policy that has been imposed on all contracts. This policy has been in force since 1973 for all registered contracts."

1.125. Enquired whether cash assistance would still be available even if the registration is made after the date of withdrawal of cash assistance, the representative of the Ministry of Commerce stated in evidence:—

"From the date of entering into the contract we allow a time of 45 days for registration. So, if a contract is entered into on 31st July, another 45 days is allowed for registration, but from 31st July it will get the protection of cash assistance."

He added:—

"There are three types of contracts. In the case of turn-key projects, the protection is for the whole period of the contract, irrespective of the number of years for which the contract is valid. In the case of engineering goods, the protection is for three years and, in the case of other exports, i.e. for non-engineering goods, it is for 12 months from the date of signing of the contract."

1.126. Asked to state in such cases how was the date of registration relevant, he stated:

“If a contract is entered into by an exporter and he wants protection under this policy, he has to register it, and the registration cannot be with any bank but only with banks which are authorised to register them on behalf of the Government. After registration with the bank, the exporter gives intimation to the Joint Chief Controller of Imports and Exports and, for all this, we give 45 days’ time from the date of the contract.”

1.127. On further enquiry as to how the registration date was relevant if cash assistance was allowed from the date of entering into the contract, the witness stated: “For protection, the contract has to be entered into prior to the termination of the cash assistance.”

1.128. In a note subsequently furnished to the Committee, the Ministry of Commerce stated that “the system of 45 days’ time allowed for registration has been in force from 1976-77” and “prior to this, the period of registration of contracts was 30 days”. Relevant extracts of the Import Policy for April, 1970—March, 1979, applicable to cash assistance, furnished by the Ministry in this connection are reproduced at Appendix IV. It is stated that the registration of contract scheme as appearing in the Import Policy has been made applicable to cash assistance also. It would be seen from the extracts from the Import Policy that in the ordinary course, the “date of registered contract” (and not the “date of registration of contract”) is the date for determining import replenishment and cash assistance.

1.129. Pointing out that the contracts entered into by firm ‘A’ (M/s. Lavino Kapur Pvt. Ltd.) on 15-7-1977 were registered with the Bank and the Joint Chief Controller of Imports & Exports on 16-7-1977 and 28/29-7-1977 respectively, the Committee desired clarification as to why these were allowed immediately before withdrawal of cash assistance. The Chief Controller of Imports & Exports stated in evidence:—

“This was not done by the JCCI. This was done by the bank.”

1.130. When the Committee further pointed out that the bank had communicated this to the JCCI who knew of the decision to abolish the cash assistance, the witness stated:—

"On the 8th July, a communication went from the Cash Assistance Section to the Joint Chief Controller saying it had been held up because Government's policy was under review."

1.131. Enquired whether the question of withdrawal of cash assistance was not implied in it, he added:

"That is not mentioned."

1.132. The Committee enquired why these contracts were allowed on 15th July, 1977 onward when the decision to withdraw cash assistance was taken on 8th July, 1977. In a subsequent communication,* the Ministry of Commerce stated:

"It was stated before the Committee that a letter was issued from the C.A. Section of Office of the Chief Controller of Imports & Exports on 8th July, 1977 asking the port offices to withhold payment of C.A. on export of absorbent cotton wool. The correct date of issue of the above letter will be the 18th July, 1977. A copy of said letter is enclosed. This inadvertent mistake which is very much regretted, occurred because of slight error in stencilling of the letter in the sense that the digit 1 in the number of 18 appeared to have been scored out whereas, in fact, it was not so. Orders to withhold payment of the pending claims was given on the 14th July, 1977 by Shri K. L. Rekhi, the then Export Commissioner. Only, thereafter the letter containing necessary instructions to port offices was prepared and issued on the 18th July, 1977."

1.133. Although since the ban on export of Bengal Deshi Cotton, no quota of this item was allowed to be exported in 1976-77, it was stated in evidence that in June, 1978, there was a change of policy and a quota of 25000 bales was allowed for export. The Committee desired to know on what basis this change of policy was enforced. In a note furnished to them, the Ministry of Commerce stated:

"In June 1978, with improvement in the cotton position and the report of the farmers in the Northern India about accumulation of Bengal Deshi Cotton and other short staple cotton in that region, some quantity of Bengal Deshi Cotton was permitted for export through Cotton Corporation of India."

*Not vetted in Audit.

1.134. Enquired whether it was ensured that sufficient quantity of this item was available for internal consumption before this decision was taken and what quantity was allowed for the subsequent months, the Ministry stated:

“It was ensured that sufficient quantity of the item was available for internal consumption. The total quantity of 25,000 bales permitted for export was for the cotton year ending August, 1978. Thus, part of this quantity could be shipped in July also. There was no separate quantity released for July.”

1.135. The Committee note that in 1966 the Government announced a package of measures, including the scheme of cash assistance, to encourage exports. The Committee are informed that since the introduction of the scheme of cash assistance in 1966, upto 1977-78, a total cash assistance of around Rs. 1,092 crores has been paid to the exporting firms. It is a staggering figure; but the position would appear more distressing if other incentives to encourage exports extended during this period. such as import replenishment, Export Market Development Allowance, assistance under Market Development Assistance Fund, assistance through Export Promotion Councils for sending delegations, study teams etc., concessional export credit, foreign exchange facilities for foreign travel on export promotion etc., are quantified and added to the quantum of cash assistance.

When the scheme for cash assistance was introduced in 1966, the broad considerations for determination of rates of cash assistance included the view that “a scheme of generalised subsidy for broad groups of products would be more effective” and that “there should be a cut off point beyond which subsidy should not be granted because it is not worthwhile exporting at any cost. This cut off point should be 25 per cent of f.o.b. after deducting import content” It is, however, stated that the rates fixed in 1966 were decided for broad groups of items and “these rates were not based on any meticulous calculation of cost disadvantages.” The Committee fail to understand as to how the important considerations quoted above were applied without the necessary calculations of cost disadvantages in respect of individual items or group of items.

The Committee are informed that the broad consideration adopted for determination of rates of cash assistance in 1966 were reviewed only in 1975, i.e., after a lapse of over 9 years. In November, 1975 the Bose Mallick Committee was set up, inter alia to “re-organise the scheme of cash assistance as an effective export promotion measure.”

Following the recommendations of this Committee, in March 1976, a decision was taken with the approval of Cabinet Committee on Exports that the rates of cash assistance should be determined "by a balanced judgement" of certain specified criteria. The Committee, however, note that many of the criteria laid down were in the nature of general assessments and were not capable of objective analysis on the basis of quantification. Soon thereafter, in September 1976, the Cabinet Committee on Exports took a decision that, with certain exceptions, cash assistance rates once fixed should remain unchanged for 3 years i.e. upto 31 March 1979. The Committee have reason to believe that even the new criteria enunciated by the Bose Mullick Committee and decided upon by the Cabinet Committee on Exports were not applied to the existing schemes and a decision was taken on an ad hoc basis in September, 1976 to extend the existing rates of cash assistance upto 31 March, 1979.

Close on the heels of the Bose Mullick Committee, another committee was appointed by Government (Alexander Committee) to go into this and other related issues which submitted its report in January 1978. The Public Accounts Committee are informed that this committee has suggested some revised criteria for the grant of cash assistance. While suggesting the principles of cash assistance scheme, the Alexander Committee has emphasised that "it is also important to recognise that cash assistance should be available only for a limited period during which the relative disadvantages, to the extent possible could be eliminated by conscious efforts. In any case, cash assistance should not be continued for indefinite period." It has also expressed the feeling that "the magnitude and pattern of cash assistance should be identified on the basis of well defined principles." The Alexander Committee has also recommended that "a detailed review of the existing cash assistance schemes should be undertaken and completed during the 12 months with a view to estimating the new levels of structure of cash assistance based on the above principles (suggested by the Committee). This new system of cash assistance should be introduced w.e.f. 1 April, 1979..." Government have stated that the recommendations of the Alexander Committee "are under the consideration of Government". The Committee have been informed by the Ministry of Commerce on 20 December, 1978 that the present rates of cash compensatory support are generally valid till 31 March, 1979 and that w.e.f. 1 April, 1979 "new rates have to be calculated on the basis of the new criteria." These new rates which would be applicable from 1 April, 1978 "would, by and large, be stable for a period of 3 years".

phasising that cash assistance should not be continued for indefinite period and that it should be available only for a limited period to neutralise the relative disadvantages. The Committee also support the suggestion of that committee that the magnitude and pattern of cash assistance should be identified on the basis of well defined principles.

The Committee regret that the Government have failed to review comprehensively item by item the rates of cash assistance in accordance with the principles decided upon in March 1976. The detailed review of existing cash assistance schemes suggested by the Alexander Committee in its report (January, 1978) does not appear to have been undertaken although nearly eleven months have passed by since the submission of the report. The Committee strongly disapprove the leisurely fashion in which Government has been postponing positive action on important matters involving huge expenditure. They recommend that Government should take prompt decision on the recommendations of the Alexander Committee and undertake a detailed review of the cash assistance schemes forthwith so as to complete it within the next three months.

1.136. The Committee are informed that it was only in June 1974 that the Government appointed a standing committee, called the "Cash Assistance Review Committee", to review cash compensatory support allowed for the export of products from time to time. Normally this committee reviews the rates of cash compensatory support "just before the rates are due to expire." The Committee also note that "no separate cell has been set up in the Ministry of Commerce exclusively to watch the trends of international trade in respect of products for which cash compensatory support is available" and that Government is relying largely on the cost data, statistics etc., supplied by the industry through the concerned Export Promotion Council. It is stated that the data so received is examined in the Ministry in consultation with the Administrative Ministry, DGTD and Finance Division. In cases where sufficient justification for grant of cash compensatory support exists the matter is placed before the Marketing Development Assistance Main Committee (where the proposal is for grant of cash assistance for the first time) or the Cash Assistance Review Committee (in cases where the proposal is only to review the existing rate of cash assistance on any particular commodity). Final decisions are then taken by the appropriate committee "on the basis of a broad general judgement taking into account the various criteria laid down."

The table included in the Audit para indicates that during January and February 1977 the average f.o.b. unit value on Indian exports of Bengal Deshi were more than that of Indian exports of absorbent cotton. It also shows that during June and December 1976 and January-February 1977 (for which figures are available), the f.o.b. prices of Pakistan Deshi (quotations) were substantially more than the average f.o.b. value of Indian exports of absorbent cotton. Further, when the export of Bengal Deshi was not permitted from the 1976-77 cotton season on account of acute scarcity of cotton within the country and large-scale import of cotton against free foreign exchange had to be resorted to, the export of absorbent cotton continued to be encouraged by the grant of cash assistance. It was after Audit pointed out the anomaly on 21-7-1977 that on 30 July 1977 the Ministry issued a Notification, withdrawing the cash assistance on export of this item with immediate effect. This case confirms the view of the Committee that the existing procedure of appraisals of the need for the continuance of cash assistance in respect of individual commodities is defective. The Committee have already in para 1.13 of their 101st Report (Sixth Lok Sabha) recommended that an effective system of evaluating the need for introduction or continuance of, or alteration in, the cash assistance schemes or other export incentives should be introduced forthwith and that such a system should include collection of requisite data and study of import export trends on a regular basis. At this stage they can only regret that though the Government were forewarned by the export data thrown up that the exports of absorbent cotton with cash assistance were no longer advantageous to the country and had in fact become uneconomic, Government did not react promptly to take corrective action.

1.137. The Committee are surprised that the Cash Assistance Review Committee differed with the conclusions reached by the Cost Study made in 1975 of the cost of production of a major exporter of absorbent cotton and also with the views of the Ministry of Finance and extended the cash assistance in respect of this commodity at the rate of 15% upto 31 March 1976 (later continued upto July 1977). The minutes of the meeting of this committee do not indicate the reasons on the basis of which such a decision was taken and the Committee are, therefore, unable to examine the considerations on which the cash assistance was allowed to continue. In the circumstances they can only recommend that hereafter the decisions taken by the Cash Assistance Review Committee or by the Marketing Development Assistance Main Committee should be fully explained and reasoned out in the minutes so as to faithfully reflect the basis of such decisions.

1.138. The Committee note that there was a spurt in the export of absorbent cotton during the cotton season 1976-77 when the export of its raw material Bengal Deshi was not permitted. According to Audit para, the absorbent cotton exported was not fully conforming to the pharmacopoeial requirements on the point of carding, sterilisation, moisture-proof packing etc. and as such these exports were not entitled to cash assistance. The Ministry have stated that cash assistance schedule describes the item as "absorbent cotton wool" and not as "absorbent cotton wool IP-BP" or not even "absorbent cotton wool conforming to pharmacopoeial specifications". According to them the goods described as "absorbent cotton uncarded silver type bleached cotton made out of 100% Bengal Deshi" were reclassified to mean "absorbent cotton wool" for purposes of cash assistance by the Local Classification Committee (EP), Bombay at their sitting held on 10 January 1974 and this re-classification was approved by the Headquarters Classification Committee (1974) at their meeting held on 2 December 1974. Thus, according to Government it was already decided that absorbent cotton for which cash assistance was admissible could be carded or uncarded. Further according to them, when a Cost Study in respect of "absorbent cotton" was made in June 1975 which was duly considered at the time of continuing the cash assistance on the commodity, the study pertained to "absorbent cotton wool uncarded."

The Committee, however, do not accept this view of the Government. The term "Absorbent cotton wool" per se is not indicative of any description except on the point of absorbency of cotton. That it was not the intention to allow cash assistance to cotton which was merely rendered absorbent is amply clear from the January 1978 communication of the Ministry of Commerce to Audit (reproduced at pp. 35-36 of the Audit Report) which stated that a conscious decision was taken in the Ministry in July 1977 that "exports of absorbent cotton conforming to pharmacopoeial standards, except on the point of carding, should be allowed as has been done during the last 10 years." The reasons for this decision, according to this communication, was "the consideration that this is a processed item, industries of which have come up in the last few years" and that "most of these industries are in the small scale sector." It was also stated that:

"Decision has been taken to allow exports of uncarded absorbent cotton because it has been represented to the Ministry that there is no demand for carded cotton from India

as the buyers in developed countries wish to do the carding and packaging at their end . . . it has also been represented that no extra value addition or any other advantage would be obtained by exporting carded absorbent cotton rather than uncarded. This is why a slight deviation from the pharmacopoeia standard was allowed."

If "absorbent cotton wool" had to be of certain pharmacopoeial standards, then we have no recourse but to refer to the Indian Pharmacopoeia for the description of this item. (The description given in Pharmacopoeias of other countries are not relevant). Absorbent Cotton Wool is clearly described in the Indian Pharmacopoeia which also prescribes certain requirements to be fulfilled before raw cotton could be regarded as "absorbent cotton wool." The practice of exports, this item without carding all through was admitted to Audit by the Ministry of Commerce. In June 1977, the Collector of Customs informed Audit that this item was being exported in bales of 125 lbs. and not in small packs as enjoined upon in the Indian Pharmacopoeia. The non-observance of the requirement of sterilisation and moisture proof packing have been admitted during evidence, though various reasons have been adduced to explain why these could not be observed. The Committee appreciate that grant of cash assistance to encourage the export of any item processed in the country is an executive decision, based on the prevailing economic situation in the country and abroad. It is, however, imperative that the description of the item on which cash assistance is made available should be absolutely clear and not susceptible to varying interpretation by executive agencies in the field. It is also necessary that if circumstances justify a change in the description of the item on which cash assistance is available, it should be made after due consideration by the Cash Assistance Main Committee and the changed description should be duly notified. In the present case, the Local Classification Committee or for that matter even the Headquarter Classification Committee was not competent to allow cash assistance on consignments which were clearly and substantially different from "Absorbent cotton wool" as described in the Indian Pharmacopoeia. The local officers or lower bodies should not have been allowed to suo moto modify the description and ignore any of the concomitant requirements, as they were more amenable to influence by powerful vested interests. This is a major irregularity for which the blame lies squarely on the Ministry of Commerce. Deviation from the pharmacopoeial standards on a large-scale accompanied by an unprecedented spurt in the export of absorbent cotton

during the period when export of raw cotton was not permitted, leads to the legitimate suspicion that unscrupulous exporters had been really exporting Bengal Deshi with very little value added under the garb of absorbent cotton, thus circumventing export policy then in force and, in addition, getting the cash subsidy applicable to the commodity. This could not have been done unless there was collusion between the field officers of the Government and the export. The Committee would like the matter to be investigated from this angle with a view to fixing responsibility and identifying the lacuna in procedures to take remedial measures.

1.139. Audit paragraph has pointed out that the Customs authorities informed Audit in June, 1977 that "for sometime some exporters, particularly firm 'A' (M/s Iavino Kapur Pvt. Ltd.) have been exporting uncarded cotton in bales of 125 lbs. as absorbent cotton wool, BP". During evidence, it came to be revealed that this fact had come to the notice of the Customs sometime in September 1976 at the level of Assistant Collector of Customs. He, however, continued the existing practice. When it became the subject-matter of press report published in February 1977 suggesting certain misuse of the facilities, the Customs started the investigation at the level of the Collector. As the British pharmacopoeia did not recognise uncarded cotton wool and required it to be in fleecy mass, the Bombay Customs had since February/March 1977 held up some consignments of absorbent cotton on the apprehension that raw cotton was being exported in the guise of absorbent cotton. Subsequently, the consignments were treated by Customs as "Raw Cotton" and exports of this item made on or after 21-3-1977 were allowed, after levying an export duty of Rs. 700/- per tonne (applicable to Bengal Deshi cotton). The scope of the terms "cotton, not carded or combed" as appearing under the Heading No. 55.01 of Customs Cooperation Council (Brussels) Nomenclature was cited by Bombay Custom House for the purpose of arriving at the meaning of the word "Raw Cotton" as adopted in the International Trade, particularly as that definition applied in the importing countries. On a clarification being given by the Ministry that it was the policy of the Government to allow exports of uncarded absorbent cotton, otherwise conforming to pharmacopoeial standards, the Collector of Customs, Bombay, issued a public notice on 6 October, 1977 notifying that exports of "uncarded cotton rendered absorbent" would be permitted on declaration in the shipping bill as "absorbent cotton uncarded but otherwise conforming to pharmacopoeial grade/specification" and that such export were to be allowed without payment of duty, pro-

vided the exporters produced the test reports confirming the cotton was conforming to pharmacopoeial specifications in all respects except carding. On the 21 November 1977, another notification was issued by the Bombay Customs stating that exports of this commodity would be permitted free of export duty on provisional assessment, pending final decision whether duty would be attracted. In March, 1978, this commodity was exempted from export duty. Thus, the liability or otherwise of duty demanded (on shipments made 6 months prior to 21-3-1977 Rs. 8.92 lakhs), duty paid between 21-3-1977 and 21-11-1977 (Rs. 11.85 lakhs on the basis of refund claims received) and duty provisionally assessed from 21-11-1977 to March 1978 (Rs. 2.77 lakhs) depended upon the advice of the Ministry of Law to which the question was earlier referred. The Committee are informed that the Law Ministry have advised that subject goods, namely, "absorbent cotton," uncarded but otherwise conforming to the pharmacopoeial standards being processed cotton would not be covered by the term "Raw Cotton" and as such no duty is leviable. The Collectors of Customs have accordingly been instructed not to levy any export duty on this item hereafter. It is also stated that "in past cases, refund may have to be given where claims were filed in time and demands for duty short-levied may have to be withdrawn." The Committee have, after detailed examination, found that at least during the cotton season 1976-77, what was being exported in the name of 'absorbent cotton' was anything but 'absorbent cotton' as only some of the processes were carried out and the cotton had not acquired all the characteristics of 'absorbent cotton'. The explicit objective of exemption from duty as well as giving cash assistance being to encourage small scale industries manufacturing absorbent cotton which had an export market, there could be no excuse for circumventing it by in effect allowing the export of what was obviously not, 'absorbent cotton' under the garb of 'absorbent cotton' thereby depriving the exchequer of the revenue by enjoying duty exemption and further defauding the Government by availing of cash assistance. The Committee strongly feel that this is a glaring example of how the Government and the exchequer can be deceived by unscrupulous elements operating at all levels. The Committee are sorry to note that when the matter was referred to the Law Ministry, the Law Ministry restricted its opinion to the phrase 'absorbent cotton uncarded, but otherwise conforming to pharmacopoeial standards' and described it as processed cotton not attracting export duty without really applying their mind as to whether the basic requirement of absorbent cotton which was exempted from export duty was fulfilled.

by the definition or not. As recommended in an earlier paragraph, this is a matter which needs to be thoroughly investigated with a view to fixing responsibility. Although the matter of export duty on this commodity now stands closed, the fact remains that during the period from 21 March 1977 (when the Customs started levying export duty on this item) to 30 July 1977 (when the cash assistance on this item was withdrawn) an anomalous situation prevailed where the Ministry of Finance was levying export duty on an item on which the Ministry of Commerce was giving cash export assistance. This is regrettable. The Committee were informed during evidence that there could be other instances also of this nature and the case of 'rice bran' was specifically mentioned. The Committee would like the Ministry of Finance (Department of Revenue) and the Ministry of Commerce to undertake a joint review to identify similar cases and take prompt action to remove the anomaly.

1.140. As already stated, in view of the tight situation prevailing at the commencement of 1976 cotton season (September-August), Government did not permit the export of Bengal Deshi during that season. Since the Customs have also the duty of enforcing the Export Control Order and in their view "Absorbent Cotton uncarded" was Raw Cotton, a point was raised as to how they initially allowed export of this item even on payment of export duty. The Secretary of the Ministry of Commerce explained during evidence that "Customs took the view that uncarded absorbent cotton should be treated as something separate from Bengal Deshi for export control purposes . . . and export policies, for the purpose of levying duty it was deemed to fall under the same category as raw cotton." The statement is, in the Committee's view, a contradiction in terms and not tenable. The Committee consider that in allowing the export of what they regarded as raw cotton, they violated the Export Control Order and the export policy then in force. This should not have been done.

1.141. Another point that strikes attention is that the Ministry of Commerce informed Audit in January 1978 that a conscious decision has been taken in the Ministry that exports of absorbent cotton conforming to pharmacopoeial standard except on the point of carding, should be allowed, "as has been done during the last 10 years." This indicates that it was the practice all along to export Absorbent Cotton in uncarded form and the Ministry of Commerce were aware of it. Bombay Customs, however, became aware of this practice for the first time in September 1976 and did not take ser-

ious note of it until in February 1977 the malpractices were highlighted in a Press report. It shows that the Bombay Customs had no organised machinery or system of check whether the goods exported were of desired specifications and were allowing duty relief on the basis of labels marked on the consignments. This reflects adversely on the organisation and working of Bombay Customs. The Committee would like this to be specifically brought to the notice of the Customs organisation at Bombay.

1.142. The Committee were informed during evidence that in cases where doubts about the specification of exported items arise and if a specific reference is made to the Assistant Drug Controller, he would check the item before allowing export. In the instant case, although a doubt was raised in September 1976 itself by the Assistant Collector of Customs, Bombay that the export consignment did not fully conform to the requirements of absorbent cotton as laid down in the pharmacopoeia, he did not refer the matter to higher authorities. The Collector of Customs also conceded during evidence that "there were some laboratory tests done in Manchester Chamber of Commerce and these were produced and these to some extent confused them" and "they did not go into the details of the pharmacopoeial specifications." He even admitted that "otherwise, it would have been corrected in September 1976 itself." It is thus evident that there was dereliction of duty on the part of the Assistant Collector of Customs also, who failed to take serious note of the irregularities noticed by him and bring them to the notice of the Collector for taking remedial measures.

1.143. Although the term "absorbent cotton wool" was clearly described in the monograph of this item in the Indian pharmacopoeia (IP) and British Pharmaceutical Codex (BPC) and clear distinctions have been drawn by the Cotton Technological Research Laboratory to identify raw cotton from absorbent cotton, the Committee are unable to understand why this term came to be interpreted differently by different Government agencies, leading consequently to export of a huge quantity of this commodity which did not fully conform to pharmacopoeial requirements. It is distressing to note that the Assistant Drug Controller to whom the consignments used to be referred for certification as to their being of pharmacopoeial standard merely endorsed his remark "no objection" on the shipping bills on the basis of laboratory test reports which accompanied the shipping bill. The Drugs Controller deposed before the Committee that in the case of absorbent cotton wool the manufacturers had been giv-

ing alongwith the invoices, a test report either from their own laboratories or in the case of merchant exporters, from certain laboratories which had been approved by the Drugs Controller of Maharashtra State, if in Bombay, and "the Assistant Drugs Controller had been checking whether the tests given in the test reports are according to the pharmacopoeial specifications." According to him "no test is conducted by him and if he finds that the test report of the consignment is passing the pharmacopoeial specifications, though in certain cases it is uncarded, he indicates his 'no objection', but the consignment is labelled that it is uncarded." The Member, Customs, stated before the Committee that this "no objection" from the Assistant Controller amounted to a certification that the consignment conformed to the pharmacopoeial requirements. The Committee consider this system as unsatisfactory as it leaves ample scope for malpractices on the part of exporters. They would like the system of certification at the port by the Drugs Controller's organisation to be streamlined so as to plug any loopholes for possible malpractices by the exporters. The system should provide for a percentage test check being done by the Assistant Drugs Controller himself or under his supervision so that the deficiencies of pharmacopoeial requirements are brought to light and got corrected before exports are allowed.

1.144. The Committee note from the evidence of the representatives of the Ministry of Commerce and the written deposition of the Ministry that the decision to abolish cash assistance on absorbent cotton wool was taken at the level of the Commerce Minister on 8 July 1977. On 14 July, 1977, Shri K. L. Rekhi, the then Export Commissioner issued an order to with hold payment of pending claims of cash assistance on the export of this commodity and the letter containing the necessary instructions to port offices was issued on 18 July, 1977. On 15 July, 1977, i.e., a day after the order of the Export Commissioner to with hold payment and a couple of days before the necessary communication was sent to the port offices, forward contracts with delivery periods ranging from 2 to 17 months worth Rs. 3.29 crores were entered into by the exporters and these were registered with the banks on 16 July, 1977. As the notification withdrawing cash assistance was issued only on 30 July, 1977, the contracts entered into and registered with banks on 15 and 16 July respectively continued to derive for the exporters the benefit of cash assistance til much after the date of withdrawal of cash assistance. The instantaneous effect given to the withdrawal of cash assistance on 30 July, 1977 was, therefore, nullified. The Committee were in-

formed that the delivery schedule normally depends on the urgency with which the consignment is required by the importers and stocks readily held by the exporters or time required for manufacture by the manufacturer exporters. While in the past also there had been rare cases of extended delivery periods ranging upto 16 months, it is intriguing to note that in almost all the contracts entered into on 15 and 18 July 1977, the delivery schedule started much later from periods ranging from 2 to 17 months. Another notable feature was that all the contracts of a total value of Rs. 3.29 crores entered into on the 15th and 18th July, 1977 were by the single firm M/s Lavino Kapur Pvt. Ltd.

These facts lead to the inescapable conclusion that there was a leakage of the decision to abolish cash assistance from the Ministry of Commerce before the issue of the Notification thereof, and also of the orders of the Export Commissioner to withhold payment of pending claims of cash assistance before these were formally communicated to the field authorities. Since the premature leakage of Government decision and orders has directly resulted in financial loss to Government to the tune of nearly Rs. 50 lakhs. being cash subsidy on hurriedly negotiated and finalised export contracts, the Committee consider it a fit case for proper investigation by an independent agency such as the CBI, to fix responsibility and punish all those guilty of collusion with the unscrupulous exporters.

The course of events narrated by the Commerce Secretary during evidence shows that from 2 July to 30 July, 1977, the file containing the important and far reaching decision of the Commerce Minister was shuttling from officer to officer and from section to section making the decision easily vulnerable to leakage to interested parties. The Committee would like the Ministry of Commerce to review their systems and procedures and suitably modify them to maintain the secrecy of decision making process until its final announcement. The Committee would, in particular, recommend that, as far as possible, a final decision taken on a matter affecting public interest should be announced on the same day, or, latest, on the following day.

1.145. The Committee have been informed that no fresh contracts have been entered into by any of the exporting firms for export of absorbent cotton since the withdrawal of cash assistance on 30 July 1977. The Ministry of Commerce are of the view that one of the reasons could be the withdrawal of cash assistance on the item. The

Committee would, however, like to caution the Ministry that failure to secure export orders could as well be due to the fact that the manufacturing capacity in respect of the item may have been fully booked to meet the export commitments of forward contracts entered into in July, 1977. Further, the Committee would like to point out that as would be seen from paras 1.3. and 1.10, absorbent cotton had a certain steady genuine export market. There was a sudden spurt in the export of this commodity from 1.53 lakh kgs. in the first half of 1976-77 to 13.74 lakh kgs. in the second half of that year. It is pertinent to note that this spurt coincided with the ban on Bengal Deshi which was imposed during that period. This would clearly show that it was the Bengal Deshi which was getting passed off as absorbent cotton enjoining both the cash subsidy as well as the exemption from export duty. It is interesting to note that all these exports were mainly being made by one single private party viz., M/s Lavino Kapur Pvt. Ltd. It is further interesting to note that, as already pointed out, after the decision was taken in the Commerce Ministry on 8 July, 1977 forward contracts were entered into by this very firm in the short period of 2 days for export of absorbent cotton of a total value of Rs. 3.29 crores. Thus, for all practical purposes, about two years export potential has already been booked which will cost the exchequer substantially by way of cash subsidy during this period. Now that the ban on the export of Bengal Deshi has been removed and all cotton exports are being, canalised through the Cotton Corporation of India, the opportunity to export Bengal Deshi surreptitiously as absorbent cotton is no longer available. In these circumstances, only the normal and genuine export market for absorbent cotton will be available and only genuine exporters of absorbent cotton are expected to take advantage of the exemption from export duty and export the same.

NEW DELHI;
 December 21, 1978
 Agraphayana 30, 1900 (S).

P. V. NARASIMHA RAO,
 Chairman,
 Public Accounts Committee.

APPENDIX I

(Vide paragraph 1.39 of the Report)

Extracts from the Report of the Committee on Export Policy and Import Replenishment Scheme.

6. Supply of inputs at international price may provide sufficient incentive for exports of a number of products by raising profitability in the export market. However, for products where we face disadvantages that cannot be fully neutralised by supplying inputs at international prices, it would still be necessary to have a fairly wide ranging system of cash assistance to improve our competitiveness and to make export activity profitable. Thus, the Committee recommended that the system of cash assistance suitably revised as means of boosting our export effort should continue since the scheme of import entitlement did not provide a viable alternative. For this purpose, the Committee felt that the determination of the rates of cash assistance should not be based on any mechanical application of a rigid formula like the difference between the F.O.B. price realisation and the so-called marginal cost of production. It is extremely difficult to determine the marginal cost of production for an industry as a whole even when full information regarding cost and production from all the units in an industry is available. In practice, the information is available only from a few units and their cost efficiency and scale of production vary from unit to unit as well as from time to time. As a result, any attempt to determine the marginal cost of an industry and comparison of such cost with a fluctuating FOB price introduces an element of *ad-hoc* judgement even if it is concealed under the mechanical formula of marginal cost-FOB price comparison. Further, unless a particular export production activity has an excess capacity and that excess capacity is also only due to lack of effective demand, the determination of cash assistance on the marginal cost will not neutralise the disadvantages sought to be removed by this assistance. The Committee, therefore, felt that it would be much better to examine the requirement of cash assistance for exports of a particular industry from a number of different angles which would require a detailed examination of the disadvantages suffered by an industry and the

methods by which such disadvantages can be removed. Accordingly, the Committee felt that the rates of cash assistance should be determined by a balanced judgement of several criteria such as:—

- (a) Export potential and domestic availability as well as supply elasticity of the products;
- (b) import content and domestic value added;
- (c) approximate implicit subsidy, if available, under the import replenishment schemes;
- (d) compensattion for irrecoverable taxes and levies;
- (e) difference between the domestic cost and international price of indigenous inputs and raw materials;
- (f) cost of entry into new markets; and
- (g) a cut off point up to which subsidy is to be allowed.

7. The Committee also felt that the rates of cash assistance should not be too many and a group of products may be allowed a uniform rate. The Committee also recommended that for fixing the cash assistance rate on the basis of the above mentioned criteria, an inter Ministerial Committee should be formed within the Ministry of Commerce which should examine all the available information with respect to all the export problems of a group of products and fix the cash assistance rates once a year. While the present system of the protection of the contracts against the changes in the rates of cash assistance should continue, there should be provision for not more than one review of each rate in a year. Ordinarily, the rates of cash assistance for the year should be issued along with the publication of the import policy. In case, it is decided that the rate of cash assistance on a commodity should be reduced or withdrawn, there should be atleast a three months notice before the change becomes effective.

APPENDIX II

(Vide paragraph 1.61 of the Report)

Definitions of absorbent cotton according to British Pharmaceutical Codex, Japan Pharmacopoeia and the Indian Pharmacopoeia.

British Pharmaceutical Codex, 1973

Cotton Wools

Absorbent Cotton Wool

Synonyms: Absorbent Cotton; Lanugo Gossypii Absorbens.

Absorbent Cotton Wool is prepared from cotton, which consists of the epidermal trichomes of the seeds of *Gossypium herbaceum* L. and other cultivated species of *Gossypium* (Fam. Malvaceae).

The seeds are removed mechanically and the trichomes freed from fatty matter by treatment *with alkali, bleached, washed and mechanically loosened* and separated to form a fleecy mass of soft white filaments which consist almost entirely of cellulose.

Absorbent cotton wool absorbs water rapidly but its absorbency may be reduced considerably by medication, by prolonged storage or by exposure to heat. It may be attacked by moulds when stored under conditions where the moisture in the cotton wool exceeds about 9 per cent.

Description:

Macroscopical: Well-carded cotton fibres, of average length not less than 10 MM. bleached to a good white, free from pieces of thread and reasonably free from leaf, shell and foreign matter. It offers appreciable resistance when pulled and does not shed any appreciable quantity of dust when gently shaken. The quality and material is the same throughout. It is odourless or almost odourless. It may be slightly off-white if it has been sterilised.

Microscopical.—Each trichome consists of a single cell, upto 4 cm. in length and 15 to 40 mm in width, forming a flattened tubular band with slightly thickened rounded edges and showing 50 to 120 twists per cm; the apex is rounded and often solid. It consists exclusively of typical cotton fibres.

THE PHARMACOPOEIA OF JAPAN SEVENTH EDITION PART

I 1961

GOSSYPIUM ABSORBENS

ABSORBENT COTTON

GOSSYP-ABSORB

Absorbent cotton is the hair of the seed of the cultivated varieties of *Gossypium herbaceum* Linne, or of other species of *Gossypium* (Malvaceae), deprived of fatty matter, and bleached.

Description.—Absorbent Cotton occurs as *white, soft, fine filament like hairs*. It is nearly odourless and almost tasteless.

When observed under a microscope, Absorbent Cotton appears as hollow, flattened, and twisted bands, striate and slightly thickened at the edges.

Absorbent Cotton dissolves in ammoniated cupric oxide TS, but is insoluble in ordinary solvents

THE PHARMACOPOEIA OF INDIA 1966 (as amended by the supplement, 1975)

ABSORBENT COTTON WOOL

Synonym: Absorbent Cotton, Surgical Cotton.

Absorbent cotton wool is prepared from cotton, consisting of the epidermal trichomes of the seeds of cultivated species of *Gossypium* (Fam. Malvaceae). The trichomes removed from the seed are freed of fatty matter by treatment with alkali, bleached with chlorinated soda or chlorinated lime, washed and combed to form a fleecy white mass of soft white filaments, consisting almost entirely of cellulose. Absorbent Cotton Wool may tend to lose its absorbency under medication, or heat, or prolonged storage.

Description

Microscopical.—Well carded cotton fibres, bleached to a good white free from pieces of threads and reasonably free from bits of leaf and seed coat, fibre dust and foreign matter; the laps are of uniform quality, continuous, showing no gaps, tears, holes or loose wads; it may be slightly off-white, if sterilized. The net contents are not less than 99.0 per cent of the weight stated on the label.

Microscopical.—Trichomes are unicellular, showing characteristic convolutions, flat, ribben-like, more than 1 cm. long and 10 to 25 μ broad, with thickened edges and solid round apex. When soaked in iodine water for a few minutes on microscope slide, and excess removed by filter paper, the trichomes will assume a purplish blue or

bluish green colour on adding a drop or two of sulphuric acid (66 per cent v|v); the trichomes are not stained by sodium picrate-picric acid solution. With the exception of a very few, the trichomes swell uniformly, without globular formation and finally dissolve, when mounted in ammoniacal copper oxide solution. It is insoluble in dilute sodium hydroxide solution, and soluble in sulphuric acid (66 per cent v|v).

APPENDIX III

(Vide paragraph 1.104 of the Report)

Advice tendered by the Ministry of Law, Justice & Company Affairs on the term 'Raw Cotton'.

The question for consideration in this reference is whether the consignment exported under the description "Absorbent Cotton" is leviable to export duty under the Tariff Entry 16 of the Second Schedule to the Customs Tariff Act, 1975.

2. The details of the manufacturing process of the absorbent cotton for export have been submitted by the Absorbent Cotton Manufacturers & Exporters' Association at page 334|c in the linked paper. The Board, however has taken the view that as it is not carded, it does not conform to the specifications of the British pharmacopia and hence, falls, within the description of raw cotton with the result that export duty is leviable on the export of such absorbent cotton. The Board also relies on the Explanatory Notes, in the C.C.C.N. Heading No. 55.01 of the said C.C.C.N.'s Explanatory Notes cover cotton, not carded or combed. The Boards point of view is that as cotton is cleaned whereby the impurities therefrom are removed, such as wax, it could still be called 'raw cotton' and, therefore, would be chargeable to duty.

3. The above Explanatory Notes on the C.C.C.N. only deal with "cotton, not carded or combed." It does not deal with raw cotton. Entry 16 of the Second Schedule to the Customs Tariff Act levies duty on export of raw cotton. It seems to me that the cotton is different from raw cotton. If a reference is made to Chapter 55 of Schedule One to the Customs Tariff Act, its heading is 'Cotton'. It reads as follows:

Chapter 55

Cotton

Heading No.	Sub-heading No. & description of article.	Rate of duty			
		Std.	U.K.	Other preferential Areas	Duration when rates of duty are Protective.
(1)	(2)	(3)	(4)	(5)	(6)
55.01/04	Cotton whether or not carded or combed ; cotton liners and waste	40%	..	..	..
55.05/06	Cotton Yarn	60%	..	..	..
55.27/03	Woven fabrics cotton.	100%	..	..	..

It is clear therefrom that where Parliament wanted to levy duty on cotton, whether or not carded or combed, it has specifically stated so and provided duty on import. But Entry 16 of the Customs Tariff Act is worded as 'raw cotton'. The legislative intent, therefore, is clear that cotton, whether or not carded or combed may not be the same as 'raw cotton'.

4. It, therefore, seems to me that not such assistance could be derived from the Explanatory Notes of the C.C.C.N, referred to earlier. It only deals with "Cotton, not carded or combed" and not with 'raw cotton'. Similarly, as the material that is exported is absorbent cotton, whether or not it conforms to the specifications laid down under the British pharmacopia, it could not be said to be 'raw cotton' as it is only on the export of 'raw cotton' that export duty is leviable.

5. The real question for consideration is whether cotton, which is sought to be exported, is raw cotton for the purpose of levy of duty under the Customs Tariff Act. The details of manufacture which raw cotton is subjected to are referred to earlier and it would seem to me that it may not be the same as raw cotton. It is common ground that after the process of manufacturing, the absorbent cotton, that is sought to be exported, cannot be used for spinning as it does not contain any wax. Raw cotton could be used for spinning as it contains wax. Besides, the absorbent cotton is known to be different from raw cotton in the commercial circles. Whether or not cotton that is exported may fall within the specifications of British pharmacopia, we are concerned in this reference only whether cotton as sought to be exported is raw-cotton within the meaning of Entry 16 of the Customs Tariff Act.

6. The specifications laid down in the British pharmacopia are with reference to absorbent cotton. It may be that cotton that is sought to be exported may not be absorbent cotton as per the specifications laid down in the British pharmacopia. It may be that it is required to be well-carded, but because it is not carded, it does not automatically follow that it is raw cotton within the meaning of Entry 16 of the Customs Tariff Act.

7. The term 'raw cotton' is not defined in the Act. It has, therefore, to be given its normal meaning as understood in the commercial parlance. In the 'Modern Textile Dictionary' by Linton, the word 'raw' is defined as-1. In, or nearly in, the natural state; little changed by processing; 2. Edge of cloth not finished to prevent fraying is called raw. The term 'Raw Fibres, Raw Material' is defined as 'material in its natural state made suitable for mani-

pulation. Examples include silk "in-the-gum", raw wool, or cotton, etc. Ramanatha Aiyar, in his 'Law Lexicon', defines the term 'raw' as 'Unmanufactured; crude; un-wrought. Hay is a raw or unmanufactured article'; and 'Raw Materials' as 'products before they have come into the process of manufacture, such as cotton, hemp, etc.'. It is clear therefrom that the raw material should be a product before it has come into the process of manufacture. The details of manufacture that are given herein show that 'raw cotton' has been subjected to certain processes of manufacture and may not be, hence, a raw material within the meaning of the above term. According to Webster's Third New International Dictionary' the word 'raw means' being in or nearly in the natural state; little changed by art or technical processes; unwrought, unprocessed, crude (textile fibres, starch, linseed oil) also not diluted or plended (spirit). Similarly in the 'Shorter Oxford English Dictionary' (Illustrated), the word 'raw' means, 'Innatural or unwrought state; not yet subject to any process of dressing or manufactured'. The term 'cotton' according to Webster's Third New International Dictionary (Vol. I) means a soft fibrous usu. White substance that clothes the seeds of various plants esp. of the genus *Gossypium*, is composed unicellular hairs forming fine twisted fibres from $\frac{1}{2}$ inch to over 2 inches long when mature, and is used extensively in the making of threads, yarns and fabrics'. It seems from the above that in order to be 'raw cotton', it should not have been subjected to any process of manufacture and that it only signifies a state when it contains the seeds and in its natural state. As the cotton, that is the subject-matter of export in the instant case, is not in that state and has undergone a definite manufacturing process, though not well-carded, it cannot be said to be a 'raw cotton' and hence may not be subjected to levy under Entry 16 of the Customs Tariff Act. The fact that the Department has granted an exemption notfn. in March 1978 exempting "absorbent cotton" uncarded but otherwise conforming to British pharmacopia standard and falling under Entry 16 of the Second Schedule may not make any difference as to the question whether or not cotton that is sought to be exported is 'raw cotton' within the meaning of the above tariff entry.

8. As I understand that the subject is going to be discussed by the P.A.C. shortly, Secretary also may please see.

Sd/- (M. B. RAO)

Joint Secretary and Legal Adviser.

Secretary

It is well settled that no tax can be levied unless there is a specific charge authorised by the statute. The Customs Tariff Act, 1975, authorises the levy of export duty only on raw cotton and cotton waste. No export duty can, therefore, be levied on other forms of cotton. The absorbent cotton in question is obviously not cotton-waste. It would attract duty liability only if it can be regarded as raw cotton. It is clear that the cotton in question has been subjected to certain treatment, so that it cannot be used for spinning. Having been subjected to certain treatment it cannot according to the meanings in the Lexicons referred to in the preceding note, be considered as being in a raw state.

2. The 'absorbent cotton' in question, therefore, cannot be regarded as raw cotton, so as to attract liability to export duty even though it may not conform to the specifications laid down in the British pharmacopia.

APPENDIX IV

(Vide paragraph 1.128 of the Report)

Extracts from the Import Policy, 1978-79.

EXTRACTS FROM PARA 146 (PAGE 19) OF THE IMPORT POLICY 1978-79

Registration of Export Contracts

In order to provide stability for the growth of exports, a scheme has been introduced for the registration of contracts. In such cases a Registered Exporter will be eligible to claim import replenishment at the same rate and for the import of the same items as were permissible on the date of the firm contracts with the overseas party.

EXTRACTS FROM APPENDIX 20 OF THE IMPORT POLICY— 1978-79

APPENDIX 20

(Para 147 of Chapter 18)

Registration of Export Contracts

The contracts should be got registered with an authorised dealer in foreign exchange within 45 days from the date of signing of the contract. In the case of contracts pertaining to IBRD/IDA aided projects in India the registration can be made with any bank.

* * * * *

3(I) While in the ordinary course, the date of registered contract will be the crucial date for determining import replenishment benefits, in the case of public tender contracts with foreign Governments or foreign public utilities, the crucial date will be the date of submission of the tender, provided there is no price variation.

APPENDIX V

Conclusions/Recommendations

Sl. No.	Para No.	Ministry concerned	Conclusions/Recommendations
1	2	3	4
1	1.135	Commerce	<p>The Committee note that in 1966 the Government announced a package of measures, including the scheme of cash assistance, to encourage exports. The Committee are informed that since the introduction of the scheme of cash assistance in 1966, upto 1977-78, a total cash assistance of around Rs. 1,092 crores has been paid to the exporting firms. It is a staggering figure; but the position would appear more distressing if other incentives to encourage exports extended during this period, such as import replenishment, Export Market Development Allowance, assistance under Market Development Assistance Fund, assistance through Export Promotion Councils for sending delegations, study teams etc., concessional export credit, foreign exchange facilities for foreign travel on export promotion etc., are quantified and added to the quantum of cash assistance.</p> <p>When the scheme for cash assistance was introduced in 1966, the broad considerations for determination of rates of cash assistance included the view that " a scheme of generalised subsidy for broad</p>

groups would be more effective" and that "there should be a cut off point beyond which subsidy should not be granted because it is not worthwhile exporting at any cost. This cut off point should be 25 per cent of f.o.b. after deducting import content." It is, however, stated that the rates fixed in 1966 were decided for broad groups of items and "these rates were not based on any meticulous calculation of cost disadvantages." The Committee fail to understand as to how the important consideration quoted above were applied without the necessary calculations of cost disadvantages in respect of individual items or group of items.

The Committee are informed that the broad considerations adopted for determination of rates of cash assistance in 1966 were reviewed only in 1975, i.e., after a lapse of over 9 years. In November, 1975 the Bose Mullick Committee was set up, *inter alia* to "re-organise the scheme of cash assistance as an effective export promotion measure" Following the recommendations of this Committee, in March 1976, a decision was taken with the approval of Cabinet Committee on Exports that the rates of cash assistance should be determined "by a balanced judgement" of certain specified criteria. The Committee, however, note that many of the criteria laid down were in the nature of general assessments and were not capable of objective analysis on the basis of quantification. Soon thereafter, in September, 1976, the Cabinet Committee on Exports took a decision that, with certain exceptions, cash assistance rates once fixed should remain unchanged

for 3 years, i.e., upto 31st March, 1979. The Committee have reason to believe that even the new criteria enunciated by the Bose Mullick Committee and decided upon by the Cabinet Committee on Exports were not applied to the existing schemes and a decision was taken on an *ad hoc* basis in September, 1976 to extend the existing rates of cash assistance upto 31st March, 1979.

Close on the heels of the Bose Mullick Committee, another committee was appointed by Government (Alexander Committee) to go into this and other related issues which submitted its report in January, 1978. The Public Accounts Committee are informed that this committee has suggested some revised criteria for the grant of cash assistance. While suggesting the principles of cash assistance scheme, the Alexander Committee has emphasised that "it is also important to recognise that cash assistance should be available only for a limited period during which the relative disadvantages, to the extent possible could be eliminated by conscious efforts. In any case, cash assistance should not be continued for indefinite period." It has also expressed the feeling that "the magnitude and pattern of cash assistance should be identified on the basis of well defined principles." The Alexander Committee has also recommended that "a detailed review of the existing cash assistance schemes should be undertaken and completed during the 12 months with a view to estimating the new levels of structure of cash assistance based on the above principles (suggested by the Committee). This new system of cash assistance should be introduced w.e.f. 1st April, 1979....."

Government have stated that the recommendations of the Alexander Committee "are under the consideration of the Government." The Committee have been informed by the Ministry of Commerce on 20th December, 1978 that the present rates of cash compensatory support are generally valid till 31st March, 1979 and that w.e.f. 1st April 1979, "new rates have to be calculated on the basis of the new criteria." These new rates which would be applicable from 1st April, 1979, "would, by and large, be stable for a period of 3 years".

The Committee agree with the Alexander Committee in emphasising that cash assistance should not be continued for indefinite period and that it should be available only for a limited period to neutralise the relative disadvantages. The Committee also support the suggestion of that committee that the magnitude and pattern of cash assistance should be identified on the basis of well defined principles.

The Committee regret that the Government have failed to review comprehensively item by item the rates of cash assistance in accordance with the principles decided upon in March, 1976. The detailed review of existing cash assistance schemes suggested by the Alexander Committee in its report (January, 1978) does not appear to have been undertaken although nearly eleven months have passed by since the submission of the report. The Committee strongly disapprove the leisurely fashion in which Government has been post-

poning positive action on important matters involving huge expenditure. They recommend that Government should take prompt decision on the recommendations of the Alexander Committee and undertake a detailed review of the cash assistance schemes forthwith so as to complete it within the next three months.

2

I.136

Commerce

The Committee are informed that it was only in June 1974 that the Government appointed a standing committee, called the "Cash Assistance Review Committee", to review cash compensatory support allowed for the export of products from time to time. Normally this committee reviews the rates of cash compensatory support "just before the rates are due to expire." The Committee also note that "no separate cell has been set up in the Ministry of Commerce exclusively to watch the trends of international trade in respect of products for which cash compensatory support is available" and that Government is relying largely on the cost data, statistics etc., supplied by the industry through the concerned Export Promotion Council. It is stated that the data so received is examined in the Ministry in consultation with the Administrative Ministry, DGTD and Finance Division. In cases where sufficient justification for grant of cash compensatory support exists the matter is placed before the Marketing Development Assistance Main Committee (where the proposal is for grant of cash assistance for the first time) or the Cash Assistance Review Committee (in cases where the proposal is only to review the existing rate of cash assistance on any particular com-

modity). Final decisions are then taken by the appropriate committee "on the basis of a broad general judgement taking into account the various criteria laid down."

The table included in the Audit para indicates that during January and February, 1977 the average f.o.b. unit value on Indian exports of Bengal Deshi were more than that of Indian exports of absorbent cotton. It also shows that during June and December, 1976 and January-February, 1977 (for which figures are available), the f.o.b. prices of Pakistan Deshi (quotations) were substantially more than the average f.o.b. value of Indian exports of absorbent cotton. Further, when the export of Bengal Deshi was not permitted from the 1976-77 cotton season on account of acute scarcity of cotton within the country and large-scale import of cotton against free foreign exchange had to be resorted to, the export of absorbent cotton continued to be encouraged by the grant of cash assistance. It was after Audit pointed out the anomaly on 21st July, 1977 that on 30th July, 1977 the Ministry issued a Notification, withdrawing the cash assistance on export of this item with immediate effect. This case confirms the view of the Committee that the existing procedure of appraisals of the need for the continuance of cash assistance in respect of individual commodities is defective. The Committee have already in para 1.13 of their 101st Report (Sixth Lok Sabha) recommended that an effective system of evaluating the need for introduction or

continuance of, or alteration in, the cash assistance schemes or other export incentives should be introduced forthwith and that such a system should include collection of requisite data and study of import export trends on a regular basis. At this stage they can only regret that though the Government were forewarned by the export data thrown up that the exports of absorbent cotton with cash assistance were no longer advantageous to the country and had in fact become uneconomic, Government did not react promptly to take corrective action.

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1.137

Commerce

The Committee are surprised that the Cash Assistance Review Committee differed with the conclusions reached by the Cost Study made in 1975 of the cost of production of a major exporter of absorbent cotton and also with the views of the Ministry of Finance and extended the cash assistance in respect of this commodity at the rate of 15 per cent upto 31st March, 1976 (later continued upto July, 1977). The minutes of the meeting of this committee do not indicate the reasons on the basis of which such a decision was taken and the Committee are, therefore, unable to examine the considerations on which the cash assistance was allowed to continue. In the circumstances they can only recommend that hereafter the decisions taken by the Cash Assistance Review Committee or by the Marketing Development Assistance Main Committee should be fully explained and reasoned out in the minutes so as to faithfully reflect the basis of such decisions.

The Committee note that there was a spurt in the export of absorbent cotton during the cotton season 1976-77 when the export of its raw material—Bengal Deshi—was not permitted. According to Audit para, the absorbent cotton exported was not fully conforming to the pharmacopoeial requirements on the point of carding, sterilisation, moisture-proof packing etc. and as such these exports were not entitled to cash assistance. The Ministry have stated that cash assistance schedule describes the item as “absorbent cotton wool” and not as “absorbent cotton wool IP-BP” or not even “absorbent cotton wool conforming to pharmaceutical specifications”. According to them the goods described as “absorbent cotton uncarded silver type bleached cotton made out of 100 per cent Bengal Deshi” were reclassified to mean “absorbent cotton wool” for purposes of cash assistance by the Local Classification Committee (EP), Bombay at their sitting held on 10th January, 1974 and this re-classification was approved by the Headquarters Classification Committee (1974) at their meeting held on 2nd December, 1974. Thus, according to Government it was already decided that absorbent cotton for which cash assistance was admissible could be carded or uncarded. Further according to them, when a Cost Study in respect of ‘absorbent cotton’ was made in June 1975 which was duly considered at the time of continuing the cash assistance on the commodity, the study pertained to “absorbent cotton wool uncarded.”

The Committee, however, do not accept this view of the Government. The term "Absorbent cotton wool" *per se* is not indicative of any description except on the point of absorbency of cotton. That it was not the intention to allow cash assistance to cotton which was merely rendered absorbent is amply clear from the January, 1978 communication of the Ministry of Commerce to Audit (reproduced at pp. 35-36 of the Audit Report) which stated that a conscious decision was taken in the Ministry in July, 1977 that "exports of absorbent cotton conforming to pharmacopoeial standards, except on the point of carding, should be allowed as has been done during the last 10 years." The reasons for this decision, according to this communication, was "the consideration that this is a processed item, industries of which have come up in the last few years" and that "most of these industries are in the small scale sector." It was also stated that:

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"Decision has been taken to allow exports of uncarded absorbent cotton because it has been represented to the Ministry that there is no demand for carded cotton from India as the buyers in developed countries wish to do the carding and packaging at their end.... it has also been represented that no extra value addition or any other advantage would be obtained by exporting carded absorbent cotton rather than uncarded. This is why a slight deviation from the pharmacopoeia standard was allowed."

If "absorbent cotton wool" had to be of certain pharmacopoeial standard, then we have no recourse but to refer to the Indian Phar-

macopoeia for the description of this item. (The description given in Pharmacopoeias of other countries are not relevant). Absorbent Cotton Wool is clearly described in the Indian Pharmacopoeia which also prescribes certain requirements to be fulfilled before raw cotton could be regarded as "absorbent cotton wool". The practice of exporting this item without carding all through was admitted to Audit by the Ministry of Commerce. In June, 1977, the Collector of Customs informed Audit that this item was being exported in bales of 125 lbs. and not in small packs as enjoined upon in the Indian Pharmacopoeia. The non-observance of the requirement of sterilisation and moisture proof packing have been admitted during evidence, though various reasons have been adduced to explain why these could not be observed. The Committee appreciate that grant of cash assistance to encourage the export of any item processed in the country is an executive decision, based on the prevailing economic situation in the country and abroad. It is, however, imperative that the description of the item on which cash assistance is made available should be absolutely clear and not susceptible to varying interpretation by executive agencies in the field. It is also necessary that if circumstances justify a change in the description of the item on which cash assistance is available, it should be made after due consideration by the Cash Assistance Main Committee and the changed description should be duly notified. In the present case, the Local Classification Committee or for that matter even the Headquarter

Classification Committee was not competent to allow cash assistance on consignments which were clearly and substantially different from "Absorbent cotton wool" as described in the Indian Pharmacopoeia. The local officers or lower bodies should not have been allowed to *suo moto* modify the description and ignore any of the concomitant requirements, as they were more amenable to influence by powerful vested interests. This is a major irregularity for which the blame lies squarely on the Ministry of Commerce. Deviation from the pharmacopoeial standards on a large-scale accompanied by an unprecedented spurt in the export of absorbent cotton during the period when export of raw cotton was not permitted, leads to the legitimate suspicion that unscrupulous exporters had been really exporting Bengal Deshi with very little value added under the garb of absorbent cotton, thus circumventing export policy then in force and, in addition, getting the cash subsidy applicable to the commodity. This could not have been done unless there was collusion between the field officers of the Government and the exporters. The Committee would like the matter to be investigated from this angle with a view to fixing responsibility and identifying the lacuna in procedures to take remedial measures.

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Audit paragraph has pointed out that the Customs authorities informed Audit in June, 1977 that "for some time some exporters, particularly firm 'A' (M/s. Lavino Kapur Pvt. Ltd.) have been exporting uncarded cotton in bales of 125 lbs. as absorbent cotton wool, BP". During evidence, it came to be revealed that this fact

had come to the notice of the Customs some time in September, 1976 at the level of Assistant Collector of Customs. He, however, continued the existing practice. When it became the subject-matter of press report published in February 1977 suggesting certain misuse of the facilities, the Customs started the investigation at the level of the Collector. As the British pharmacopoeia did not recognise uncarded cotton wool and required it to be in fleecy mass, the Bombay Customs had since February/March 1977 held up some consignments of absorbent cotton on the apprehension that raw cotton was being exported in the guise of absorbent cotton. Subsequently, the consignments were treated by Customs as "Raw Cotton" and exports of this item made on or after 21-3-1977 were allowed after levying an export duty of Rs. 700 per tonne (applicable to Bengal Deshi cotton). The scope of the terms "cotton, not carded or combed" as appearing under the Heading No. 55.01 of Customs Cooperation Council (Brussels) Nomenclature was cited by Bombay Custom House for the purpose of arriving at the meaning of the word "Raw Cotton" as adopted in the International Trade, particularly as that definition applied in the importing countries. On a clarification being given by the Ministry that it was the policy of the Government to allow exports of uncarded absorbent cotton, otherwise conforming to pharmacopoeial standards, the Collector of Customs, Bombay, issued a public notice on 6 October, 1977 notifying that exports of "uncarded cotton rendered absorbent" would be per-

mitted on declaration in the shipping bill as "absorbent cotton uncarded but otherwise conforming to pharmacopoeial grade|specification" and that such exports were to be allowed without payment of duty, provided the exporters produced the test reports confirming that cotton was conforming to pharmacopoeial specifications in all respects except carding. On the 21 November, 1977, another notification was issued by the Bombay Customs stating that exports of this commodity would be permitted free of export duty on provisional assessment, pending final decision whether duty would be attracted. In March, 1978, this commodity was exempted from export duty. Thus, the liability or otherwise of duty demanded (on shipments made 6 months prior to 21-3-1977—Rs. 8.92 lakhs), duty paid between 21-3-1977 and 21-11-1977 (Rs. 11.85 lakhs on the basis of refund claims received) and duty provisionally assessed from 21-11-1977 to March 1978 (Rs. 2.77 lakhs) depended upon the advice of the Ministry of Law to which the question was earlier referred. The Committee are informed that the Law Ministry have advised that subject goods, namely, "absorbent cotton", uncarded but otherwise conforming to the pharmacopoeial standards being processed cotton would not be covered by the term "Raw Cotton" and as such no duty is leviable. The Collectors of Customs have accordingly been instructed not to levy any export duty on this item hereafter. It is also stated that "in past cases, refund may have to be given where claims were filed in time and demands for duty short-levied may have to be withdrawn". The Committee have, after detailed examination, found that at least during the cotton season 1976-77,

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what was being exported in the name of 'absorbent cotton' was anything but 'absorbent cotton' as only some of the processes were carried out and the cotton had not acquired all the characteristics of 'absorbent cotton'. The explicit objective of exemption from duty as well as giving cash assistance being to encourage small scale industries manufacturing absorbent cotton which had an export market, there could be no excuse for circumventing it by in effect allowing the export of what was obviously not 'absorbent cotton' under the garb of 'absorbent cotton' thereby depriving the exchequer of the revenue by enjoying duty exemption and further defauding the Government by availing of cash assistance. The Committee strongly feel that this is a glaring example of how the Government and the exchequer can be deceived by unscrupulous elements operating at all levels. The Committee are sorry to note that when the matter was referred to the Law Ministry, the Law Ministry restricted its opinion to the phrase 'absorbent cotton uncarded, but otherwise conforming to pharmacopoeial standards' and described it as processed cotton not attracting export duty without really applying their mind as to whether the basic requirement of absorbent cotton which was exempted from export duty was fulfilled by the definition or not. As recommended in an earlier paragraph, this is a matter which needs to be thoroughly investigated with a view to fixing responsibility. Although the matter of export duty on this commodity now stands closed, the fact remains that during the

period from 21 March 1977 (when the Customs started levying export duty on this item) to 30 July 1977 (when the cash assistance on this item was withdrawn) an anomalous situation prevailed where the Ministry of Finance was levying export duty on an item on which the Ministry of Commerce was giving cash export assistance. This is regrettable. The Committee were informed during evidence that there could be other instances also of this nature and the case of 'rice bran' was specifically mentioned. The Committee would like the Ministry of Finance (Department of Revenue) and the Ministry of Commerce to undertake a joint review to identify similar cases and take prompt action to remove the anomaly.

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I.140

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As already stated, in view of the tight situation prevailing at the commencement of 1976 cotton season (September-August), Government did not permit the export of Bengal Deshi during that season. Since the Customs have also the duty of enforcing the Export Control Order and in their view "Absorbent Cotton uncarded" was Raw Cotton, a point was raised as to how they initially allowed export of this item even on payment of export duty. The Secretary of the Ministry of Commerce explained during evidence that "Customs took the view that uncarded absorbent cotton should be treated as something separate from Bengal Deshi for export control purposes...and export policies; for the purpose of levying duty it was deemed to fall under the same category as raw cotton." The statement is, in the Committee's view, a contradiction in terms and not tenable. The Committee consider that in allowing the export

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of what they regarded as raw cotton, they violated the Export Control Order and the export policy then in force. This should not have been done.

I.141

Commerce

Another point that strikes attention is that the Ministry of Commerce informed Audit in January 1978 that a conscious decision has been taken in the Ministry that exports of absorbent cotton conforming to pharmacopoeial standard except on the point of carding, should be allowed, "as has been done during the last 10 years." This indicates that it was the practice all along to export Absorbent Cotton in uncarded form and the Ministry of Commerce were aware of it. Bombay Customs, however, became aware of this practice for the first time in September 1976 and did not take serious note of it until in February 1977 the malpractices were highlighted in a Press report. It shows that the Bombay Customs had no organised machinery or system of check whether the goods exported were of desired specifications and were allowing duty relief on the basis of labels marked on the consignments. This reflects adversely on the organisation and working of Bombay Customs. The Committee would like this to be specifically brought to the notice of the Customs organisation at Bombay.

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I.142

-do-

The Committee were informed during evidence that in cases where doubts about the specification of exported items arise and

if a specific reference is made to the Assistant Drug Controller, he would check the item before allowing export. In the instant case, although a doubt was raised in September 1976 itself by the Assistant Collector of Customs, Bombay that the export consignment did not fully conform to the requirements of absorbent cotton as laid down in the pharmacopoeia, he did not refer the matter to higher authorities. The Collector of Customs also conceded during evidence that "there were some laboratory tests done in Manchester Chamber of Commerce and these were produced and these to some extent confused them" and "they did not go into the details of the pharmacopoeial specifications". He even admitted that "otherwise, it would have been corrected in September 1976 itself." It is thus evident that there was dereliction of duty on the part of the Assistant Collector of Customs also, who failed to take serious note of the irregularities noticed by him and bring them to the notice of the Collector for taking remedial measures.

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Although the term "absorbent cotton wool" was clearly described in the monograph of this item in the Indian pharmacopoeia (IP) and British pharmaceutical Codex (BPE) and clear distinctions have been drawn by the Cotton Technological Research Laboratory to identify raw cotton from absorbent cotton, the Committee are unable to understand why this term came to be interpreted differently by different Government agencies, leading consequently to export of a huge quantity of this commodity which did not fully conform to pharmacopoeial requirements. It is distressing to note that the Assistant Drugs Controller to whom the consignments used

to be referred for certification as to their being of pharmacopoeial standard merely endorsed his remark "no objection" on the shipping bills on the basis of laboratory test reports which accompanied the shipping bill. The Drugs Controller deposed before the Committee that in the case of absorbent cotton wool the manufacturers had been giving alongwith the invoices, a test report either from their own laboratories or in the case of merchant exporters, from certain laboratories which had been approved by the Drugs Controller of Maharashtra State, if in Bombay, and "the Assistant Drugs Controller had been checking whether the tests given in the test reports are according to the pharmacopoeial specifications." According to him "no test is conducted by him and if he finds that the test report of the consignment is passing the pharmacopoeial specifications, though in certain cases it is uncarded, he indicates his 'no objection', but the consignment is labelled that it is uncarded." The Member, Customs, stated before the Committee that this "no objection" from the Assistant Controller amounted to a certification that the consignment conformed to the pharmacopoeial requirements. The Committee consider this system as unsatisfactory as it leaves ample scope for malpractices on the part of exporters. They would like the system of certification at the port by the Drugs Controller's organisation to be streamlined so as to plug any loopholes for possible malpractices by the exporters. The system should provide for a percentage test check being done by the Assistant Drugs Control-

ler himself or under his supervision so that the deficiencies of pharmacopoeial requirements are brought to light and got corrected before exports are allowed.

10

I.144

Commerce

The Committee note from the evidence of the representatives of the Ministry of Commerce and the written deposition of the Ministry that the decision to abolish cash assistance on absorbent cotton wool was taken at the level of the Commerce Minister on 8 July 1977. On 14 July 1977, Shri K. L. Rekhi, the then Export Commissioner issued an order to withhold payment of pending claims of cash assistance on the export of this commodity and the letter containing the necessary instructions to port offices was issued on 18 July 1977. On 15 July 1977, i.e., a day after the order of the Export Commissioner to withhold payment and a couple of days before the necessary communication was sent to the port offices, forward contracts with delivery periods ranging from 2 to 17 months worth Rs. 3.29 crores were entered into by the exporters and these were registered with the banks on 16 July 1977. As the notification withdrawing cash assistance was issued only on 30 July 1977, the contracts entered into and registered with banks on 15 and 16 July respectively continued to derive for the exporters the benefits of cash assistance till much after the date of withdrawal of cash assistance. The instantaneous effect given to the withdrawal of cash assistance on 30 July 1977 was, therefore, nullified. The Committee were informed that the delivery schedule normally depends on the urgency with which the consignment is required by the

importers and stocks readily held by the exporters or time required for manufacture by the manufacturer exporters. While in the past also there had been rare cases of extended delivery periods ranging upto 16 months, it is intriguing to note that in almost all the contracts entered into on 15 and 18 July 1977, the delivery schedule started much later—from periods ranging from 2 to 17 months. Another notable feature was that all the contracts of a total value of Rs. 3.29 crores entered into on the 15th and 18th July, 1977 were by the single firm M/s. Lavino Kapur Pvt. Ltd.

These facts lead to the inescapable conclusion that there was a leakage of the decision to abolish cash assistance from the Ministry of Commerce before the issue of the Notification thereof, and also of the orders of the Export Commissioner to withhold payment of pending claims of cash assistance before these were formally communicated to the field authorities. Since the premature leakage of Government decision and orders has directly resulted in financial loss to Government to the tune of nearly Rs. 50 lakhs, being cash subsidy on hurriedly negotiated and finalised export contracts, the Committee consider it a fit case for proper investigation by an independent agency such as CBI, to fix responsibility and punish all those guilty of collusion with the unscrupulous exporters.

The course of events narrated by the Commerce Secretary during evidence shows that from 2 July to 30 July 1977, the file containing

the important and far reaching decision of the Commerce Minister was shuttling from officer to officer and from section to section making the decision easily vulnerable to leakage to interested parties. The Committee would like the Ministry of Commerce to review their systems and procedures and suitably modify them to maintain the secrecy of decision making process until its final announcement. The Committee would, in particular, recommend that, as far as possible, a final decision taken on a matter affecting public interest should be announced on the same day, or, latest, on the following day.

11

I.145

Commerce

The Committee have been informed that no fresh contracts have been entered into by any of the exporting firms for export of absorbent cotton since the withdrawal of cash assistance on 30 July, 1977. The Ministry of Commerce are of the view that one of the reasons could be the withdrawal of cash assistance on the item. The Committee would, however, like to caution the Ministry that failure to secure export orders could as well as due to the fact that the manufacturing capacity in respect of the item may have been fully booked to meet the export commitments of forward contracts entered into in July, 1977. Further, the Committee would like to point out that as would be seen from paras 1.3 and 1.10, absorbent cotton had a certain steady genuine export market. There was a sudden spurt in the export of this commodity from 1.53 lakh kgs. in the first half of 1976-77 to 13.74 lakh kgs. in the second half of that year. It is pertinent to note that this spurt coincided with the

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ban on Bengal Deshi which was imposed during that period. This would clearly show that it was the Bengal Deshi which was getting passed off as absorbent cotton enjoining both the cash subsidy as well as the exemption from export duty. It is interesting to note that all these exports were mainly being made by one single private party viz., M/s. Lavino Kapur Pvt. Ltd. It is further interesting to note that, as already pointed out, after the decision was taken in the Commerce Ministry on 8 July, 1977, forward contracts were entered into by this very firm in the short period of 2 days for export of absorbent cotton of a total value of Rs. 3.29 crores. Thus, for all practical purposes, about two years export potential has already been booked which will cost the exchequer substantially by way of cash subsidy during this period. Now that the ban on the export of Bengal Deshi has been removed and all cotton exports are being canalised through the cotton Corporation of India, the opportunity to export Bengal Deshi surreptitiously as absorbent cotton is no longer available. In these circumstances, only the normal and genuine export market for absorbent cotton will be available and only genuine exporters of absorbent cotton are expected to take advantage of the exemption from export duty and export the same.

