

TWO HUNDREDTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1983-84)

(SEVENTH LOK SABHA)

**CUSTOMS RECEIPTS—DUTY ON PASSENGERS
BAGGAGE**

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)



Presented in Lok Sabha on
Laid in Rajya Sabha on

LOK SABHA SECRETARIAT
NEW DELHI .

March, 1984/Chaitra, 1906 (Saka)

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CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE	(iii)
INTRODUCTION	(v)
REPORT	i
APPENDIX I —ITC Public Notice No. 27 dated 27 July, 1980.	40
APPENDIX II —Customs Notification No. 84 dated 22 August, 1975.	43
APPENDIX III—Statement of Conclusions and Recommendations.	44

PART II *

Minutes of sittings of the Public Accounts Committee held on :

20 September, 1983 (FN&A)
28 March, 1984

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PUBLIC ACCOUNTS COMMITTEE
(1983-84)

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3. Shri K.K. Sharma—*Senior Financial Committee Officer*

INTRODUCTION

1. I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Two Hundredth Report on Paragraph 1.19 of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Customs Receipts—Duty on Passengers' Baggage.

2. The Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes was laid on Table of the House on 3 April, 1983. The Committee examined the audit paragraph at their sittings held on 10 September, 1983 (FN & AN). The Committee considered and finalised the Report at their sitting held on 28 March, 1984. Minutes of these sittings of the Committee form Part II* of the Report.

3. In this Report, the Committee have observed certain glaring shortcomings in the system of assessment and collection of duty from passengers' baggage. The present system does not provide for maintaining even basic data of baggage goods. The Committee have desired that the Ministry of Finance should evolve a system where primary data are recorded without hampering clearance of passengers and causing harassment to the travelling public. According to the Committee, this is imperative in order to assess the impact of the policy in regard to baggage goods in all its ramifications.

4. The Committee have noted that the value of smuggled goods seized by customs authorities amounted to Rs. 39.94 crores, Rs. 40.42 crores, Rs. 52.85 crores, Rs. 39.70 crores, and Rs. 66.39 crores during each of the years 1978 to 1982 respectively. Out of these, the value of goods seized in raids and searches in towns/cities during the corresponding period were Rs. 3.66 crores, Rs. 6.48 crores, Rs. 5.64 crores, Rs. 8.65 crores and Rs. 14.22 crores respectively. Considering that the percentage of seizures in towns and cities form a substantial part of the total seizures and that the goods seized in town seizures are generally of the same kind as are usually brought as baggage, the Committee have concluded that the loopholes in the Baggage Rules supplement the adverse impact on the economy caused by smuggling.

5. The Committee have noted with concern that after the liberalisation of Baggage Rules in March 1983, a new class of passengers, viz., hired passengers indulging in carrier trade came into existence. These persons visit India's neighbouring countries like Sri Lanka, Maldives etc. from time to time and bring foreign goods in great demand in this country. Because of the wide differences in the prices of certain goods in those countries and in this coun-

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try, these persons were able to make huge profits even after covering their tour expenses and paying duty as per baggage rules. The Committee have recommended that in order to obviate the recurrence of such misuses, the Ministry of Finance should examine the feasibility of fixing a monetary ceiling beyond which a person should not be allowed to bring duty-free foreign goods as baggage during a year, irrespective of the number of his visits.

6. The Committee have recommended that the Ministry of Finance should supplement the present system of assessment and collection of duty on baggage goods including check exercised by Tourist Baggage Re-export Forms procedure by recording and using relevant data as an additional measure of macro control. This would in no way cause harassment in individual cases. The Committee have also emphasised the need for Government to ensure that the baggage concessions are availed of by the genuine travelling public and that unscrupulous elements are not allowed to abuse the liberalised baggage facilities to the detriment of the country's economy.

7. For reference facility and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form as Appendix to the Report.

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

9. The Committee would like to express their thanks to the Officers of the Ministry of Finance (Department of Revenue) for the cooperation extended by them in giving information to the Committee.

NEW DELHI;

30 March, 1984
10 Chaitra, 1906(s)

SUNIL MAITRA
Chairman,
Public Accounts Committee.

REPORT

DUTY ON PASSENGER'S BAGGAGE

Audit Paragraph

1.1 As per Customs Act 'baggage' includes unaccompanied baggage but not motor vehicles. Declaration of baggage made by the passengers arriving at any port or airport may be in writing or oral. In cases of doubt, physical examination is conducted by Preventive Officers. On the basis of the declaration and examination, duty is assessed and collected and baggage cleared from customs control.

1.2 On goods imported as baggage, to the extent not exempted, customs duty is leviable under heading 100.01 of the first schedule to the Customs Tariff Act, 1975. In 1978 the duty free allowance was raised to Rs. 1000 and on goods for value upto Rs. 2,000 in excess thereof, duty was leviable at 120 per cent *ad valorem*. From 17 June 1980 this rate was raised effectively to 150 per cent. From 15 July 1980 in addition to duty free allowance and 150 per cent duty on excess for value upto Rs. 2,000 the rest of the baggage also became dutiable effectively at 320 per cent instead of viewing the rest as imported unauthorisedly and, therefore, liable to confiscation, fines and penalties. This was designed to do away with the time consuming process of adjudication. Goods which were obviously in the nature of trade goods, not being baggage, were, however, liable to fine and penalty as imports without licence. From 15 March 1981 the rates of 150 per cent and 320 per cent were raised to 155 per cent and 325 per cent respectively and from 28 February 1982 to 160 per cent and 330 per cent respectively.

1.3 In the Port of Bombay, the trend of incoming passengers' baggage, in the last three years was as follows :—

		1979-80	1980-81	Percentage increase during 1980-81 over 1979-80	1981-82	Percentage increase during 1981-82 over 1979-80	Percentage increase during 1981-82 over 1980-81
1	2	3	4	5	6	7	8
(Revenue and value in crores of rupees)							
I. By Air							
(a)	Incoming passengers	8,88,376	9,87,510	11	11,22,720	26	14
(b)	Revenue Collection on accompanied baggage	47.00	64.42	37	77.42	65	20
	(i) Duty	42.80	62.53		77.08		2
	(ii) Redemption fine	4.03	1.80		0.24		
	(iii) Personal penalty	0.17	0.09		0.10		
(c)	Revenue collection on unaccompanied baggage	2.51	4.15	65	5.77	121	39
	(i) Duty	1.89	3.88		5.75		
	(ii) Penalty	0.62	0.27		0.02		
II. By Sea							
(a)	Revenue Collection on baggage accompanied and unaccompanied	4.49	5.12	14	6.17	44	26
	(i) Duty	3.62	4.90		6.42		
	(ii) Fine	0.87	0.22		0.05		

1	2	3	4	5	6	7	8
III. Number of seizure cases (by air)		286	N.A		45		
Value of goods seized		2.20	7.12		0.39		
IV. Number of baggage cases (by air) adjudicated (unlicensed imports)		47,453	19,172	(-) 60	4,288*	(-) 91	(-) 78
Value of goods adjudicated		16.35	0.03	(-) 99	3.32*	(-) 81	10966
V. Number of baggage cases (by sea) adjudicated		5946	2242	(-) 63	186	(-) 92	(-) 78

*goods confiscated

N. A. - Not available.

1.4 The above figures bear out, that the expectation of value of goods in adjudicated cases going down consequent to change in baggage duty structure, has been fulfilled, save for an increase in 1981-82 over 1980-81. The percentage increase in revenue earning on accompanied baggage by air in 1981-82 over that in 1979-80 is much higher (65 per cent) than the percentage increase in number of incoming passengers (26 per cent). Even after allowing for the increase in number of passengers in 1981-82, the net increase of 39 per cent in revenue realisation in 1981-82 over that in 1979-80 is only slightly higher than the increase of about 30 per cent in the rate of duty on the first Rs. 2,000 (in excess of free allowance) from 120 per cent (that was being levied in 1979-80) to 155 per cent (in 1981-82). There was apparently only an increase of 9 per cent in the per-capita duty realisation from baggage imports attributable to the prohibitive rate of duty of 330 per cent. There is need for primary data on the composition of the baggage (from which now substantial revenue is earned) being brought on record by the Customs Houses and for opening sub-heads under heading 100.01 of the Customs Tariff in order to analyse the revenue from baggage which has registered a steep increase as given below :—

(in crores of rupees)

Year	Revenue from baggage
1978	42.39
1979	57.98
1980	85.53
1981	121.93

1.5 The Tourist Baggage Rules provide for import, temporarily of personal effects of bona fide tourists, free of duty, provided they are re-exported when the tourists leave India. Articles of high value, such as cameras, are passed free of duty on obtaining an undertaking in writing from the tourist that he will re-export them out of India, or pay duty leviable thereon on failure to do so. Such articles are entered in a "Tourists Baggage Re-export Form" (T.B.R.E. Form) a copy of which is given to the tourist, to be surrendered by him at the port or airport of departure from India. The re-export forms collected from the tourists at the port or airport of their departure from India are sent after suitable endorsement to the port or airport of issue of the TBRE form for pairing. This ensures that such articles of high value have been re-exported and have not been disposed of by the tourist within the country unauthorisedly.

1.6 The number of T.B.R.E. Forms issued in Bombay and Delhi airports during the last five years which could not be paired were as below :—

Year	Number of T. B. RE. forms issued	Number of forms paired	Number of forms not paired	(Percentage not paired)
BOMBAY				
Upto 1976	..	..	14389	
1977	63718	56634	7084	11
1978	73107	56547	16560	23
1979	65358	52565	12853	20
1980	73940	59199	14741	20
1981	97759	86667	17092	17
DELHI				
1977-78	26080	24763	1317	5
1978-79	21016	18086	2930	13
1979-80	27026	24184	2842	11
1980-81	29752	24657	5095	17
1981-82	31047	22465	8582	27

1.7 Of the T.B.R.E. Forms issued, in the year 1980, in Bombay, which remained unpaired, sixty per cent pertained to import of gold jewellery valuing more than Rs. 10,000 in each case, amounting in all to at least Rs. 8.8 crores of gold jewellery imported in that year, without payment of duty.

1.8 On motor cycles and other such motor vehicles (not being baggage) if brought in by passengers, Customs duty is leviable under heading 87.09/12 at 130 per cent and additional countervailing duty at 20 per cent and 5 per cent special excise duty. Though redemption fine and penalty are leviable on such items, imported without licence or customs permit, the amount of duty, fine and penalty levied falls short of the high rate of duty on baggage imported similarly on which duty of 330 per cent *ad valorem* is levied.

1.9 It was seen in audit that on import of 26 such motor cycles by the crew of airlines the difference in duty effect worked out to Rs. 1,21,350 i.e. average of Rs. 5,280 per motor cycle.

1.10 The value of jewellery items, imported by passengers, as baggage, is determined under orders issued from time to time and with effect from 1 June, 1982, was fixed at Rs. 125 per gramme. For other articles, price lists are published by the Air Customs pool from time to time by reference to trade catalogues published from important shopping centres abroad. They serve as guidance to Customs Officers assessing various items of baggage. Goods like textiles, sarrees etc. are valued at between Rs. 75 to Rs. 150 each. Electronic goods, watches, cameras etc., are not always valued uniformly

as they might have been used, but the depreciation allowed is never recorded on the baggage documents and considerable discretion vests with the assessing officer, the exercise of discretion by him cannot be checked after the goods are cleared, there being no record of facts, except the duty assessed on a rough and ready basis subject to the guidance of price lists.

1.11 It was seen in audit that two pieces of "Sony colour T.V. 20 inches model" were valued at Rs. 3800 each and two other pieces of same description at Rs. 4,000 each. The valuation of calculators ranged from Rs. 200 to Rs. 1,200 and the description on record was "Calculators". Out of 1,000 baggage-duty receipts, in 320 receipts textiles were mentioned. On 133 receipts the value of textiles was shown as exactly Rs. 500 and charged to duty at 155 per cent or at 160 per cent *ad valorem*. On 10 receipts the value of textiles was shown as more than Rs. 500. On enquiry in audit (April 1982) about the basis for discretionary valuation of baggage items, the Customs House stated (April 1982) that the valuation depends upon various attendant circumstances such as period of use, condition of articles etc. The system of assessing and collecting the lawful duty on baggage items would seem to merit a review in the light of the increasing revenues from baggage items and the absence of recorded data.

1.12 The matter was reported to the Ministry of Finance (September, 1982); their reply is awaited.

[Paragraph 1.19 of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Govt. (Civil) Revenue Receipts Volume-I Indirect Taxes]

Baggage Rules – Introductory

1.13 The Committee desired to know the objectives for which the Baggage Rules were framed. The Secretary Ministry of Finance (Department of Revenue) stated in evidence :

"The baggage rules are designed primarily to secure quick clearance of the passengers arriving at airports. The objective is that there should be minimal delay in the clearance of the passengers. Any hardship or harassment to the passengers should be avoided. The secondary objective is that the baggage rules should allow the passengers to bring with them whatever they have in their possession when they are living or staying abroad so that their possessions can be transferred to the country. The revenue aspect as a part of the baggage rules, if I may say so, assumes secondary character or occupies comparatively minor position or role in the baggage rules".

1.13A The witness further stated :

"We have somehow acquired a reputation of being a difficult country for tourists to come and as a result of that the growth of tourism has not been as fast as one might have expected or the facilities that we provide in this country should attract the tourists. Therefore, the effect of the

Government has been to frame the baggage rules in such a manner as to encourage tourism and to reduce as far as possible the fears of the tourists including the Indian passengers who arrive at the Indian airports.

Another objective of the baggage rules is that the visitors should not be allowed to bring whatever they like because we have to take into account the impact of whatever is imported through the baggage on the local industry. We are not yet in a position where we can make it free for all. Therefore, some sort of restriction has to be imposed."

1.14 When asked how the baggage of an incoming passenger was to be determined under the Rules, the witness replied :

"The baggage of a passenger would normally include the used articles of personal wear, excluding jewellery but including not more than one wrist watch of value not exceeding Rs. 500 and articles in personal use of passengers for satisfying daily necessities of life.

In addition to this, a passenger is allowed to bring with him certain articles of gifts, souvenirs, etc.

The essential rules under the Baggage Rules is that a passenger should not bring with him any article in commercial use. If it is, then naturally the facility of baggage rules cannot be made available.

What is commercial quantity and what is not commercial quantity is a matter of judgement depending upon the circumstances of the passenger".

1.14A When asked if a passenger could bring six transistors or videos, he replied :

"Supposing an Indian returns after five years of stay abroad. He belongs to a large family and he wants to present one transistor to different relatives and he brings four or five transistors. It is not a commercial quantity. The price of the transistor and how frequently he is visiting and things like that, are of considerable importance in determining whether the benefit of a Baggage Rules is to be extended or not".

1.15 The Committee wanted to know the prevailing procedure for customs scrutiny of passengers baggage. The Ministry of Finance (Department of Revenue) have in a note stated as follows :

"As regards baggage, the accompanied baggage both by Air and Sea is cleared on oral declaration. For this purpose those without any dutiable articles in their baggage walk through Green Channel and those with dutiable articles are assessed to duty on the basis of their declaration in the Red Channel. There is provision for percentage examination of goods in both the cases. Misdeclaration when detected results in penal action. Unaccompanied baggage is, however, cleared on a written declaration which contains detailed about the number of pack-

ages and the broad list of the household goods. The accompanied baggage is cleared on the basis of the declaration but a percentage check not exceeding 10% is carried especially in cases where the goods *prima facie* appear to be much in excess of the declaration/permissible limit. For purposes of valuation of the baggage items, the Customs Officers are usually guided by the price lists and catalogues maintained by the Department and due allowance is made for the condition of the article and the period of use".

1.16 The details of the total number of incoming passengers, the number of passengers having opted green and red channels respectively, the number of misdeclarations detected, the c.i.f. value of misdeclared goods, and the amount of fine/personal penalties imposed by the Customs authorities are shown in the following Table :

Year	Total number of passengers	No. of passengers opting for Green channel	No. of Passengers opting for Red Channel	Misdeclaration detected	C. I. F. value of misdeclared goods	Amount of Fine Personal penalty*
1979	Not available	6,41,603	3,88,050	3,784	1,72,15,708	3,93,17,520
1980	Not available	10,02,898	6,44,636	13,175	3,45,44,753	3,76,58,276
1981	21,50,619	10,66,118	7,12,626	7,694	2,47,12,689	71,86,117
1982	23,43,579	13,01,288	8,52,287	4,797	3,85,66,010	60,64,488
1983 (up to September)	27,25,973	10,83,180	6,52,157	8,700	3,19,55,461	99,48,252

1. No. separate record for number of passengers opting respectively for Green and Red Channels is maintained at Trivandrum Airport or Amritsar Land Customs Stations or Bombay Sea Port. These figures are included in the total number of passengers but are not reflected in the break up between the Green Channel and the Red Channels.
2. Figures for 1979 do not include passengers landing at Delhi Airport.
3. *This was in addition to prosecution in some cases (These figures are only for Bombay Caluctta and Madras Airports).

1.17 When asked to bifurcate the figures of total incoming passengers into foreign tourists and Indians residing abroad respectively, the Ministry of Finance (Department of Revenue) replied :

“The Department does not maintain separate information regarding the proportion of passengers who are tourists or Indians residing abroad”.

1.18 The effective rates of customs duty on passengers' baggage and exemption limits which remained in force from time to time commencing from 1973 onwards are indicated below :

1973 to 18-6-80	— 100% plus 20% Auxiliary duty for goods in excess of free allowance.
19-6-80 to 14-7-80	— 130% plus 20% Auxiliary duty for goods in excess of free allowance.
15-7-80 to 14-7-81	— 130% (Upto a value of Rs. 2,000/- in excess of free allowance) 300% (On the value in excess of Rs. 2,000 /- and free allowance). Plus 20% Auxiliary Duty
15-7-81 to 28-2-82	130% upto a value of Rs. 2,000/- in excess of free allowance). 300% (On the value in excess of Rs. 2,000/- and free allowance). Plus 25% Auxiliary Duty.
1-3-82 to 28-2-83	— 130% (Upto a value of Rs. 2,000/- in excess of free allowance) 300% (On the value of excess of Rs. 2,000/ and free allowance) Plus 30% Auxiliary Duty.
1-3-83	— 130% (Upto a value of Rs. 2,000/- in excess of free allowance) 200% (On the value in excess of Rs. 2,000/- and free allowance). Plus 35% Auxiliary Duty.

(*Except in the case of Fire Arms, Textiles in excess of Rs. 5,00/ cigarettes, cigars and Tobacco in excess of the free allowance limits.)

“The general free allowance from 1970 to 15th May, 1978 was Rs 500/- which was raised to Rs. 1,000/- from 16th May, 1978. The allowance was further raised to Rs. 1,250/- from 1-3-1983. However, from 8-6-1983 the general free allowance only for passengers arriving from Sri Lanka and Maldives is reduced to Rs. 300/- only.”

1.19 At the instance of the Committee the Ministry of Finance (Department of Revenue) have furnished the following statement showing the comparative increase in revenue from passenger baggage:

	1980 1st March to 31st May, 80	1981 1st March to 31st May, 81	1982 1st March to 31st May, 82	1983 1st March to 31st May, 83
<i>By AIR</i>				
INCOMING PASSENGERS	3,68,788	4,30,232	4,88,853	5,32,189
<i>UNACCOMPANIED BAGGAGE</i> (Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
(a) Duty	1,47,32,688/-	2,02,88,264/-	3,50,07,038/-	5,42,40,982/-
(b) Fine	35,22,574/-	1,42,360/-	1,96,120/-	2,80,140/-
(c) Penalty	32,800/-	3,000/-	8,850/-	6,750/-
<i>ACCOMPANIED BAGGAGE</i>				
(a) Duty	17,15,99,4850/-	27,20,58,680/-	33,60,58,021/-	42,39,91,137/-
(b) Fine	1,67,90,925/-	13,47,944/-	12,40,681/-	23,19,386/-
(c) Penalty	6,64,983/-	7,64,928/-	7,94,632/-	24,15,041/-
<i>By SEA</i>				
INCOMING PASSENGERS	40,628/-	36,926/-	46,748/-	46,353/-
<i>ACCOMPANIED BAGGAGE/ UNACCOMPANIED BAGGAGE</i>				
(a) Duty	1,66,87,782/-	2,34,91,596/-	4,02,93,901/-	3,15,05,475/-
(b) Fine	38,36,983/-	1,87,090/-	1,93,380/-	2,46,815/-
(c) Penalty	38,600/-	9,960/-	17,502/-	10,910/-
<i>BY LAND</i>				
INCOMING PASSENGERS	1,58,817 /-	1,35,620/-	1,21,562/-	1,17,208/-
<i>ACCOMPANIED UN- ACCOMPANIED BAGGAGE</i>				
(a) Duty	35,40,139/-	23,61,520/-	43,14,775/-	19,98,084/-
(b) Fine	14,77,906/-	3,55,595/-	6,08,825/-	3,07,927/-
(c) Penalty	28,552/-	31,990/-	27,730/-	9,330/-

1.20 When asked to explain how duty collection on accompanied baggage during March to May, 1983 went up by 24 per cent over that in March to May 1982 even though the rate of duty was reduced from 300 percent to 200 percent apart from increase in free allowance, the Ministry of Finance (Department of Revenue) stated :—

“The fact that the duty was reduced from 300% to 200% has acted as an incentive to passengers to make a true declaration of their baggage. A lower rate of duty and the fact that the free allowance is being deducted from the value of goods imported has also resulted in passengers bringing in more goods as the burden of duty has been reduced”.

1.21 ▲ statement showing the average *per capita* duty realisation customs House-wise furnished by the Ministry of Finance (Department of Revenue) at the instance of the Committee is given below :

	1978-79 (Rs.)	1979-80 (Rs.)	1980-81 (Rs.)	1981-82 (Rs.)	1982-83 (Rs.)
Bombay : By Air	390.00	481.00	633.00	686.00	805.00
By Sea	405.00	682.00	924.75	1150.00	864.00
Nagapattinam	1120.00	1559.00	2030.00	2586.00	2856.00
Rameswaram	15.00	33.00	129.00	127.00	241.00
Trichy	65.00	286.00	249.00	236.00	566.00
Cuddalore . . . . .	..	..	2246.00	1409.00	2162.00
Pondicherry . . . . .	..	..	102.00	1765.00	874.00
Tuticorin	779.00	1242.00	1582.00	1879.00	1957.00
Madras : By Sea	890.00	982.00	1366.00	2233.00	2659.00
By Air	380.00	448.00	617.00	933.00	1099.00
New Delhi	218.00	229.00	381.00	442.00	536.00
Chandigarh by Air	108.00	212.00	438.00	352.00	519.00
By Land	25.00	30.00	44.00	34.00	38.00
Calcutta	67.00	105.00	146.00	136.00	179.00

1.22 In reply to a question the Ministry of Finance (Department of Revenue) have stated that the increase in the duty realisation between 1978-79 and 1983-84 could be attributed to the increase in the rates of duty.

1.23 Asked how the Ministry would explain the significant increase in *per-capita* increase in duty realisation from passengers in 1982-83 over that in 1981-82 and increase in 1981-82 over that in 1980-81 when there was hardly any increase in rates of duty on baggage, the Ministry of Finance (Department of Revenue) replied :—

“The increase could generally be attributed to the fact that the passengers were bringing in more and more sophisticated and costly electronic items like T.V., V.C.R. and technically advanced sound reproducing equipments which are of a high value and, therefore, the passengers had to pay a higher rate of duty. The increase could also partly be attributed to the large rush of television sets imported during the Asian Games in 1982, by passengers as part of their baggage.”

Liberalisation of Baggage Rules

1.24 The Committee desired to know the reasons behind the changes in rates of duty on passengers baggage made during the years 1978 to 1983. The Ministry of Finance (Department of Revenue) have, in their note, stated as under :—

“The rate of duty on baggage was changed on 19-6-1980, from 100% to 300% with a view to augmenting revenue and also to contain the baggage brought by passengers. However, by issue of Notification No. 120 dated 19-6-1980, the effective rate of duty on baggage was for the time being kept at 130% plus Auxiliary duty of 20%. From 15-7-1980, the slab rate of duty was introduced by Notification No. 142-Cus, dated 15-7-1980 by virtue of which the concessional rate of duty of 130% was limited to a value of Rs. 2000/- and the rate of duty applicable on excess goods was the standard rate of duty at 300%. Auxiliary duty was chargeable at the rate of 20%. These changes were made pursuant to the recommendations of a Study Group appointed by the Government of India to recommend measures for improvement in customs clearance of international passengers. Chief recommendations of the Study Group were that proper incentive should be given to the passengers to contain their baggage and also to dispense with the need for the process of adjudication and appeals, etc.

From 15-7-1981, there was a general increase in the rate of auxiliary duty and, therefore, effective rates of customs and auxiliary duty on baggage were 130% + 25% on the first Rs. 2000/- of value and 300% + 25% on the excess value. From 1-3-82, there was net another increase in the rate of auxiliary duty by 5% raising the rates of duty on baggage to 130% + 30% (upto Rs. 2000/-) and 300% + 30% (on the excess value). From 1-3-1983 by issue of Notification No. 58-Cus, dated 1-3-1983, the higher slab of duty was reduced from 300% to 200% except in the case of fire arms, textiles in excess of Rs. 500/- and cigarettes, cigars and tobacco in excess of the free allowance limit. The higher slab of duty was brought down to 200% pursuant to the recommendations of the Group on Increasing the Flow of Remittances and Non-Resident Investment submitted to the Government in October, 1982. There was a general increase of 5% in the auxiliary duty w.e.f. 1-3-1983 and accordingly the rate of auxiliary duty on baggage also was increased to 35%.”

1.25 Asked how flow of remittance and investment by non-residents will increase by reducing rate of duty (beyond free allowance) from 300 per cent to 200 per cent, the Secretary (Department of Revenue) stated during evidence :—

“The Committee on promoting investment by non-resident Indians made a number of recommendations on how to attract investment by non-resident Indians. One of the recommendations related to the baggage rules and the procedure at the airports.

The Study Group was appointed by the Govt. to look into the wider question of increasing flow of remittances from the overseas Indians or non-residents of Indian origin. A bulk of the remittances was coming from these people who went to the Gulf countries for employment. Now these people were being clubbed with the ordinary travellers of passengers and the baggage allowance for them was the same as for any passenger baggage.

Since these people have been making a very significant contribution to the nation's economy, the Study Group felt that something special needs to be done for this category of people and that they should be given a more liberal baggage allowance than what is given to the others. One thing that has been done is that a higher baggage allowance has been prescribed for this category of people who go for employment abroad and who stay there for a minimum period of time. They made a further observation that the impression that had been created on these people coming from abroad at the airports was not a favourable impression. We should, therefore, modify our procedures or streamline it. We should also reduce the rigour of our Import duty on baggage allowance to make things easier for the people who are coming from abroad. This was broadly the recommendation. As a result of that, two steps were taken—(1) the duty was brought down to 200% and (2) a higher baggage allowance given to the people coming from overseas.”

1.26 Justifying the decision to reduce duty, the witness further stated :—

“It helps this way. When your rate of duty is very high there will be a tendency on the part of the people not to declare the items. On the other hand, if the rate of duty is moderate or reasonable, people would not mind paying the duty and being the legitimate owners of the products which are imported. After all, imported products are kept at the house. They do attract certain provisions of law. You have to verify by some receipt that it has been regularly imported and duty has been paid. A person who has not paid duty, always runs the risk of being caught at any point. On the other hand, if he has customs receipt with him, he does not run this risk. If you make the duties more moderate, more acceptable, the compliance will be better than it would be if the duties are very high. The fact that after the reduction of duties, the amount of collection has rather gone up instead of going down, would indicate that our presumption is correct.”

1.27 On being asked whether it could not be construed that the increase in revenue is due to the increase in imports as a result of the liberalised Baggage Rules, the witness stated :—

“May be it is partly due to one and partly due to the other.”

Carrier Trade after liberalisation of Baggage Rules

1.28 The Committee enquired if it had come to the notice of the Government that a new class of passengers, viz. hired passengers had come into existence after the liberalisation of the Baggage Rules. In reply, Secretary, Department of Revenue stated during evidence :—

“I think so. This has been noticed in case of certain routes. We have taken corrective action. In case of Sri Lanka, we found that suddenly passenger traffic had gone up and a number of people were indulging in carrier trade. As soon as we noticed this thing we modified the rules and we reduced the value from Rs. 1200 to Rs. 300. The result is that the traffic and import have gone down.”

1.29 The witness continued :—

“So far as Sri Lanka and Maladive Islands are concerned, the people can go by boat, spending only a few rupees and come back with imported goods.

In fact, there was a time when special flights had to be arranged to accommodate traffic to Colombo.

We found that most of the people going there were coming back with electronic goods. We took immediate action and reduced the baggage allowance from Rs. 1250 to Rs. 300. This had immediate impact. Now, the Indian Air lines flights and Ceylon Airlines flights have been practically half-full since then. There has been a complaint from the other side, from the Government of Maldives that as a result of the restriction imposed, the traffic between India and Maladive has gone down.”

1.30 When asked to indicate the extent to which traffic had increased to Sri Lanka and Maladives during the period 1 March, 1983 to 8 June, 1983 over the corresponding period in the previous year and also the position of traffic to those countries after the reduction of general free allowance with effect from 8 June, 1983, the Ministry of Finance (Department of Revenue) have stated :—

Passenger Traffic to Sri Lanka and Maladives from 1-3-83 to 8-6-83	59,671
Passenger traffic to Sri Lanka and Maladives from 1-3-82 to 8-6-82	49,816
Passenger traffic to Sri Lanka and Maladives from 1-9-83 to 30-9-83	18,030

1. Figures for Rameswaram Port not available. However, it is reported that there was a 26% increase in traffic at the Port during the above period.

2. Figures for Rameswaram Port and Trivandrum Airport not available. However, it is reported that there was a 47% reduction over the corresponding period last year. Traffic between Trivandrum and Maladives has stopped.

1.31 The Committee enquired whether the overall collection of duty per capita had shown a decrease after 8 June, 1983 when restrictions on free allowance was imposed on passengers from Sri Lanka and Maladives. The Ministry of Finance (Department of Revenue) in their note stated :—

“It is true that the overall collection of duty per capita from passengers from Sri Lanka and Maladives has shown a decrease after June, 1983.”

1.32 In reply to a question if the Customs Department was maintaining a list of suspected hired passengers who were used for carrier service after the liberalisation of Baggage Rules and the record of visits of such suspected passengers, the Secretary (Department of Revenue) stated during evidence :—

"It is very difficult. The system of intelligence enables us to find out who are the carriers. They are kept under watch..... We do not have records of these visits.... it is very difficult to say whether the repeated visits are *bona fide* or not. Business executives might have to visit their clients very frequently."

1.33 The Committee asked if it was not possible for the department to devise ways to have a distinction between a genuine tourist and a hired passenger. The witness replied :—

"It will be extremely difficult to make a distinction. The Customs Department has its intelligence organisation. Certain people who indulge in carrier traffic are detected. They are kept under watch and action is taken against them. If such a person comes and is passing through red or green channel, his baggage will be searched."

1.34 On being asked whether it would not have been a better proposition to lay down a limit beyond which a person could not import within a period, say a year, instead of reducing the free allowance in such cases, the Member (Customs) stated :—

"We tried it earlier in the past and we had to give up because it was delaying clearance because every passport was being scrutinised. But we will see again whether some sort of element can be introduced."

Nature of baggage brought by passengers

1.35 The Committee were informed that goods generally brought by passengers as baggage consisted of textiles, ready made garments, electronic goods, music system, cosmetics, perfumes and toilet requisition, wrist watches, cigarettes, cassette tapes, cameras, video tapes, liquor etc.

1.36 The Committee desired to know the percentage of incoming passengers who make written declaration as per statistics maintained by the Customs Houses or ascertained by sample studies. The Ministry of Finance (Department of Revenue) have in their note stated :—

"Normally the accompanied baggage of passengers is cleared on oral declaration, except where the goods imported invite adjudication proceedings, such as suspected case of smuggling or misdeclaration. The percentage of such cases to the total number of incoming passengers at Bombay Airport is as under :—

Year	Percentage
1978—79	4.36
1979—80	5.34
1980—81	1.94
1981—82	0.38
1982—83	0.53

1.37 On being asked what percentage of declarations made by passengers was found to be incorrect, the Secretary, Department of Revenue stated in evidence :—

“The procedure that has been prescribed both for the green channel and the red channel is that we take the passenger on trust, we accept his declaration excepting that some sort of test check is done at the exist gate. Some of the cases in which the baggage is test checked at the exist gate have shown that the declarations made by the passengers have not been absolutely correct. Now, it is very difficult to say on the basis of these observations as a result of the test check what will be the percentage of the correct declarations and what percentage of declarations will be incorrect. It is precisely for this reason that the trust which we put in the passengers has to be coupled with an element of fear in the minds of the passengers, the provision for the test check has been made and on the whole, I would say that the procedure and the practice has been working quite satisfactorily.”

1.38 Asked whether the existing procedure allows for maintaining records atleast in rudimentary details of the nature of baggage imported, exported and its corresponding values, the Ministry have replied :—

“The baggage clearance procedure is designed to facilitate and expedite the clearance of baggage of incoming passengers. No record whatsoever is kept of goods cleared through green channel or against the free allowances. In the case of accompanied baggage charged to duty, the value and broad description of the goods is recorded on the baggage receipt and in the case of un-accompanied baggage, the details are available in the baggage declaration form and/or duty receipts. No consolidated record or progressive figures are maintained.”

1.39 The Committee desired to know whether the Department had noticed any shortcoming in the actual working of the system of giving sole discretion to appraisers to allow passengers to bring in any quantity of baggage without keeping some record and recording only dutiable baggage but without bringing on record details or value of baggage cleared free of duty. The Ministry of Finance (Department of Revenue) have stated :—

“In the arrival hall manned by customs, usually the work of 4 Airport Officers is supervised by one Superintendent and the Assistant Collector of Customs is the overall incharge who supervises the clearance of passengers. It may not, therefore, be correct to say that the Airport Officers or even Appraisers have sole discretion of allowing passenger to bring any quantity of baggage. There are checks and counter-checks by the Superintendent and the Assistant Collector as also general surveillance by the Preventive parties. Under a revised arrangement now being worked out, it is proposed to entrust clearance work to Superintendent assisted by Preventive Officer/Inspectors.

“The value of items passed free within the free allowance are roughly estimated and it is not possible to record details of the items allowed as it will be a very time consuming effort and will hamper the clearance of passengers without any corresponding advantage. It will be a retrograde step, cause harassment to the passengers and invite complaints from the travelling public.”

1.40 In this connection, the Secretary, Department of Revenue stated during evidence :—

“A record of the goods that the passengers bring by passing through the green channel cannot be maintained because by the very definition it is a sort of walk-through channel. The presumption is that the passenger does not have any dutiable articles which means that except for those falling in the prohibited category, the value of the articles that he has imported does not exceed Rs. 1250/-. In that case, he can just walk through the green channel. The Department will not have any record of whatever he has brought. But when he passes through the red channel, he has to declare whatever he has brought. Of course, there will be a record and a very broad record will be maintained. For example, it will say, VCR and its description, or it will say ‘colour television’ or ‘so many sarees’ or something like that. A detailed description of the articles that are brought through the red channel will not be available.”

1.41 On being asked whether it meant that there was no control over the imported baggage, the Secretary, Department of Revenue deposed in evidence :—

“One could not come to a conclusion that there is no control or there is no check. The only thing is that we are not maintaining individual statistics and it is not possible to do so under the system. The baggage policy is designed to ensure quick clearance at the airports. If we were to go into individual passenger baggage, what he brings and where he takes and all that we will require such a huge machinery the cost of which will be several times the value of the imports plus inconvenience and hardship that will be caused to the passengers for whose benefit the policy has been liberalised. I do not think it will be really worthwhile to undertake such detailed maintenance of individual statistics.”

Impact on indigenous economy

1.42 The Committee asked how the impact of baggage imports on the indigenous economy could be estimated in the absence of proper records. The Ministry of Finance (Department of Revenue) have replied :—

“The impact of the baggage imports on the indigenous economy or any particular industry can be guessed on the basis of trends and the total amount of revenue collected from baggage.”

1.43 The Committee drew attention of Government to the criticism in newspapers that market for indigenous products like electronic items, man-made fabrics and polyester sarees had gone down considerably after the baggage rules allowed import of any product as baggage only on payment of duty but without production of import licence. The Ministry of Finance (Department of Revenue) have stated :—

“In this context, it would be necessary to emphasise that the goods imported as baggage are generally for personal use or for family use or for gifting away to relatives and friends. Availability of such goods through baggage channels not only permits collection of duty to some extent but also reduces the demand for these goods imported through smuggling. Both under the ITC Public Notice No. 27, dated 15th July,

1980 (as amended) and Customs Notification No. 84, dated 22-8-1975, the sale of imported goods is allowed only after a certain period of time and after the value of the goods has depreciated to less than 50%. The criticism in newspapers that the market for electronic items, man-made fabrics or polyester sarees has gone down considerably is not fully justified. The rates of duty at the highest slab of 235% is sufficiently high to mop up any incentive for sale of such baggage goods. Some impact of the latest concessions is not completely ruled out. However, this may be desirable in the larger interest of the country and also the industry as it would impel the industry to improve the quality and to bring down their prices to a reasonable level benefiting thereby the consumers."

1.44 The Committee enquired if it was the declared policy of Government that the indigenous industry had got too much of sheltered market and the doors should be thrown open so that foreign goods may come in this country and our industry may face competition. In reply, Secretary, Ministry of Finance (Department of Revenue) stated :

"It is a common knowledge that imports on a limited scale of certain products have been allowed even though those products are being manufactured in this country. For example, if you want to set up a sugar plant in this country, you will go in for global tenders. The purpose of this whole exercise is that the indigenous industry should undertake necessary measures of modernisation, quality improvement, price reduction so that the users in the country get the required benefits. Likewise, in the case of electronics also the consequences of this policy will be that if there is some limited import the electronic industry in the country also will be forced to gear itself up to meet this situation."

1.45 He further stated :

"The baggage policy has not been designed keeping in view things like domestic industry, consumer goods sector, etc. Basically, it is a facility to the passenger. It has primarily been looked into from that angle. But I cannot say that if we allow import of goods it will not have any effect on the domestic industry at all."

1.46 On being enquired whether any specific representations were received from any indigenous industry against the liberalisation of baggage rules on the ground of its adverse impact, the Chairman, Central Board of Excise and Customs stated during evidence :—

"The indigenous industry which has got affected can be electronics and local textiles. So far as synthetic goods are concerned the baggage rules say a passenger cannot bring synthetic goods for more than Rs. 500/-. Even this Rs. 1250 limit cannot be utilised by him entirely for textiles. By and large, the textile industry has not protested. But lately there have been some representations which we are looking into."

.... "So far as this Rs. 1250—limit goes, it would have affected indigenous industry, say, textiles and electronics. In respect of import of goods by passengers on the basis of 235% duty is concerned, this stipulation is large enough and strong enough to take care of the problem."

1.47 When asked to indicate the corrective/remedial action taken by Government on the representations, the Secretary (Department of Revenue) deposed in evidence :—

“...So far as the effect on the local industries is concerned, I would not say that there is no effect. If imports become too large even though through the route of baggage, they are bound to produce some impact on the local industries. The local industry has represented to us that as a result of baggage allowance being liberalised, there has been impact on their production and their sales. We have taken note of that and also taken corrective action. The question is what should be the corrective action—whether it should be going back on the baggage allowance policy or something else. Take for instance, the electronics industry which was perhaps the most talked of being affected following the revision of baggage rules and about which some representations were made soon after the rules were introduced. Our answer to those people is that they would be given concessions so that their products would be cheaper rather than reverse the baggage policy. And the new policy, as you would have noticed, has been very widely welcomed by the electronic industry and the people at large.”

1.48 In a note furnished after evidence the Ministry of Finance (Department of Revenue) have further stated :—

“The duty concessions for the electronics industry announced on 18-8-1983 gave effect to the recommendations of the Department of Electronics. The purpose of these concessions was to encourage electronic enterprise, to reduce input costs and to enable the electronics industry to attain economic viability and a competitive edge. The duty structure for such items has been rationalised to achieve two-fold objective of lowering input costs to the end user and infusing healthy competition for the manufacturers.

The duty concessions for the electronics industry announced on 18-8-83 are briefly summarised below :—

- (i) Specified inputs for the electronics industry have been totally exempted from Customs duty (Notifications 229/83).
- (ii) Specified inputs for the electronics industry have been exempted from duty in excess of 15% *ad-valorem* (Basic 15% A.D. Nil and C.V.D. Nil—Notification No. 230/83-Cus.).
- (iii) Specified inputs for the electronics industry have been exempted from duty in excess of 40% *ad-valorem* (40 Basic, A.D. Nil and C.V.D. Nil.—Notification No.231/83-Cus.).
- (iv) Specified electronic components have been exempted from duty in excess of 75% *ad-valorem* (50% Basic, 25% A.D. and Nil C.V.D.—Notification No. 232/83-Cus.).
- (v) Electronic sub-assemblies have been exempted from duty in excess of 100% *ad-valorem* (65% Basic, 35% A.D. Nil C.V.D. Notification 233/83-Cus.).

- (vi) Imports for Electronics Projects have been exempted from duty in excess of 25% *aa-valorem* (25% Basic, Nil A.D., Nil C.V.D. Notification 234/83-Cus.).
- (vii) Components (other than electronic sub-assemblies) of medical electronic equipment have been exempted from basic, auxiliary and C.V. duties in excess of the duty applicable to the finished medical electronic equipment (Notification 235/83-Cus. and 240/83-Cus.).
- (viii) Computers have been exempted from duty in excess of 135% *aa-valorem* (100% Basic + 35% A.D. + Nil C.V.D. Notification 236/83-Cus.).
- (ix) Specified computer peripherals have been exempted from duty in excess of 75% *aa-valorem* (50 Basic + 25% A.D. + Nil C.V.D. Notification 237/83).
- (x) Import duty on specialised capital equipment for the electronics industry has been reduced from 35% *aa-valorem* (total) to 25% *ad-valorem* (total) Notification 238/83-Cus."

1.49 On being asked to indicate the extent of duty foregone on account of these concessions, the Ministry of Finance (Department of Revenue) have stated :—

*Statement Showing customs Revenue Implications of Duty Concessions for the Electronics Industry
Announced on 18th August, 1983*

S.No.	Item	Effective duty rate (total) before the concessions	Effective duty rate (total) announced on 18-8-83	Remarks
1.	Specified specialised capital equipment.	35%	26%	
2.	Project Imports	60%	25%	
3.	Specified Inputs	*80% (average)	Nil	
4.	Specified Input.	*80% (average)	15%	
5.	Specified Inputs	*80% (average)	40%	
6.	Specified Components Sub-Assemblies	*120% (average)	75% } 100% }	
7.	Computers	184.35%	135%	
8.	Specified computer peripherals.	135.95%	75%	
	Year	Numbr of seizures	Value (Rs. in lakhs)	

*As several effective rates are applicable, an average has been taken for these calculations, taking into account the relative quantum of imports.
The revenue foregone as a result of the above concessions would be Rs. 87 crores (appx) in a year.

STATEMENT SHOWING CENTRAL EXCISE REVENUE IMPLICATIONS OF DUTY CHARGES ANNOUNCED ON 18TH AUGUST, 1983 FOR THE ELECTRONICS INDUSTRIES

S. No.	Item	Effective duty rate before the Concessions.		Effective rate annouced on 18-8-83.	
		Basic	SED	Basic	SED
(1)	(2)	(3)	(4)	(5)	(6)
1.	Musical systems commercially known as stereo or Hi-Fi Systems.	40%	40%	20%	Nil
2.	Gramophones, record, players, recod playing decks, record changer decks,	25%	5%	20%	Nil
3.	Sound recorded cassette tapes	25%	5%	15%	Nil
4.	(i) Radio sets of 3 bands or more	25% to 40% adv.	5%	20% Adv.	Nil
	(ii) Tape recorders including cassette recorder and tape decks, tape players (including cassette players) combination sets of any of these articles and transistor sets.	25% to 40% adv.	5%	20% adv.	Nil
	(iii) Black and white TV sets of screen size not exceeding 36 cms.	10% adv. ¶	5%	5%	Nil
	(iv) Black and white TV sets of screen size exceeding 26 cms. but not exceeding 51 cms. and colour TV sets of screen size not exceeding 51 cms.	16% to 25% adv.	5%	15%	Nil
	(v) Other TV sets of screen size exceeding 51 cms.	25%	5%	30%	Nil
	(vi) Computer (including Central processing units) and pripheral devices. ¶	20%	5%	15%	Nil

Note: 1. ¶Tape recorders, tape players and transistor sets and combination sets thereof manufactured in the small scale sector are also eligible for a further reduction of duty by ten percentage points.

2. As a result of the changes made through the aforesaid notifications there is likely to be a revenue sacrifice of about Rs. 11 crores in a full year.

Action taken on violation of Baggage Rules

1.50 The Committee desired to know whether the duty levied on passenger baggage was considered to be a prohibitive rate. The Ministry of Finance (Department of Revenue) have replied :—

“The duty levied on the passenger baggage is considered to be reasonably prohibitive in as much as what is allowed to be cleared as baggage on payment of duty but without fine and penalty is only bonafide baggage meant for the use of the passenger or for his family or for making gifts. The high rate of duty is meant to wipe out the margin of profit on sale in India and thus to prove a disincentive for sale. It is also intended to dispense with the need for confiscation etc. in order to speed up clearance. Goods brought by the passenger in commercial quantities or for trade purposes have not only to pay the duty at the prevailing rates but also fine and penalty that may be imposed for breach of import trade control requirements. Further, the sale of goods imported as baggage is not allowed in terms of the ITC public Notice as well as Customs Notification No. 84 dated 22-8-1975.”

1.51 Copies of the ITC Public Notice No. 27 dated 15 July, 1980 and Customs Notification No. 84 dated 22 August, 1975 are at Appendices I and II, respectively.

1.52 Enquired how the Department ensured that these orders are not violated, the Secretary, Department of Revenue stated in evidence :

“It will be difficult, I believe, to give information as to how many goods have been sold out which have been imported as baggage.”

1.53 The witness further stated :—

“If I may say so, 90% of the bona-fide passengers who come in, comply with the law.”

1.54 On being pointed out that as the department had not been able to distinguish between bonafide passengers and the carrier passengers, how could it be definitely said as 90%, the witness replied :—

“It is a general observation.”

1.55 The Committee also pointed out that the department had no record of the baggage goods and, therefore, it would not be possible to check their sale in the Indian market. Asked about the purpose of notification of 22 August, 1975 in the circumstances, the Ministry have replied in a note :—

“In view of the large increase in the passenger traffic at the Airport it would not be possible to detail the goods allowed free of duty to each passenger under the Baggage Rules. However, it would not be correct to say that the notification of 22nd August, 1975 is of no use as a number of seizures have been effected in terms of the provisions of that notification. In addition it acts as a deterrent both legal as well as psychological to all persons who intend selling goods imported by them as baggage.”

1.56 When asked to indicate the number of cases booked for violations of these orders during each of the last 8 years, the Ministry of Finance (Department of Revenue) have stated :—

“The information is not available as field formations do not separately maintain the figures of seizures effected only on account of this notification.”

Sale of smuggled goods

1.57 The Committee asked whether it was not a fact that the sale of imported goods in the Indian market had gone up during the years 1980 to 1983. The Ministry of Finance (Department of Revenue) replied :—

“It is not possible to make an estimate regarding the quantity of imported goods sold in the Indian market.”

1.58 Asked what was the reaction of the Ministry of Finance to the view that the bulk of the foreign goods sold in the open market in most metropolitan cities and border towns were those smuggled through the green and red channels, the Secretary, Department of Revenue stated :—

“It is true that whenever things are brought as baggage, though they are not meant to be sold within a certain period, sometimes they may be sold. There are instances. It is also true that the goods which are otherwise smuggled might be shown as having been cleared as baggage. Here, we get into the question of overall control of management of our anti-smuggling activities. We have an elaborate organisation to keep an eye over smugglers and to undertake anti-smuggling measures. We have the Directorate of Intelligence and an anti-smuggling wing. An officer of the rank of Additional Secretary has been put in-charge exclusively of anti-smuggling. This shows the importance we attach to these activities. This organisation in over the years has done a commendable work and a number of important catches have been made and they have produced a real impact.

Notwithstanding this fact, I quite agree that there are instances where imported goods are sold in various cities. But here again, we do take action. We organise city raids and seize the imported stock. As a matter of fact, over the last few years, very large number of raids have been conducted and the goods worth several crores of rupees have been confiscated.”

“We may receive information that in such and such area, certain goods which are imported are being sold and a raid is organised and the goods which are being sold and displayed are confiscated. It is a difficult exercise to go into the history of each item whether it came as part of the baggage or through some other smuggling routes or through any other arrangement.”

1.59 In a note furnished after evidence, the Ministry have further stated :—

“The general surveillance exercised by the Customs Intelligence Officers in plain clothes in the Baggage Hall, provision for a selective check of

baggage and the monitoring of the passengers' movements through Close Circuit T.V. enables the Department to restrict the clearance of contraband items in the baggage of passengers passing through the green channel. It is, however, not possible to apportion the percentage of the goods sold in the open market as to their source."

1.60 Elaborating the functioning of anti-smuggling wing, the Additional Secretary (Anti-smuggling) stated in evidence :

"Firstly it can be done by prior intelligence which is collected either by the officers on the spot or by the dossiers which the Directorate of Revenue Intelligence maintains and sometimes even by anonymous calls and letters received from so many sources through which intelligence can be obtained to see whether a person is *bona fide* or not.

Secondly, it can be done by scrutiny of passport, the number of visits he makes. Although the number of visits will not go against him, but depending upon the passenger and his background, it should be possible to see whether he is a *bona fide* passenger or a carrier.

Thirdly, it can be done by having a suspicion. Our officers over a period of time, with some modesty I can claim, do spot out the suspicious passengers and there have been any number of cases when very substantial seizures have been made by mere observation of the passenger's behaviour.

So far as the impact is concerned, it is true that the baggage rules and regulations provide that the goods are not to be sold, displayed etc. In respect of certain goods like fire arms, the period is not less than 10 years; for T.V. it is not less than 5 years and so on. This is as far as the undertaking, not to sell, is concerned and afterwards it is quite in open display. It could be proved. We have made a number of seizures of open display goods in the past one or two years and even earlier."

1.61 In this context, the Committee desired to know the year-wise details of the total number of seizures of smuggled goods effected by the customs authorities and the value of goods seized as a result thereof during each of the year 1978 to 1982. The information furnished by the Ministry of Finance is shown in the following Table :—

Year	Number of seizures	value (Rs. in lakhs)
1978	1,04,431	3,094
1979	1,03,640	4,042
1980	1,16,735	5,285
1981	62,124	3,970
1982	71,751	6,639

1.62 The principal types of goods so seized were stated to be gold, watches, synthetic yarn and fabrics, silver, diamonds and precious stones, dangerous drugs, currency, vehicles and vessels etc. The value-wise details of such goods as indicated by the Ministry of Finance are as follows :—

Year	Gold	Watches	Synthetic Yarn & Fabrics	Silver	Diamonds & precious stones	Dangerous drugs	Currency including sale pro- ceeds of led goods	Value: Rs. in lakhs		Total
								Vehicles & smugg- vessels.	Other articles	
1978	153	311	1018	9	92	41	65	97	1308	3094
1979	136	337	1219	123	101	23	123	66	1901	4042
1980	130	317	1147	949	109	34	105	138	2359	5285
1981	254	357	481	130	58	44	202	265	2181	3972
1982	1288	599	814	17	181	98	291	494	2857	6639

1.63 Out of the total seizures, the number of raids and searches conducted to unearth smuggled goods in towns and cities, and the value of goods seized as a result thereof are shown in the following Table :

Year	Number of raids/ searches	Value of goods seized (Rs. in lakhs)
1978	23795	365.53
1979	31476	647.75
1980	15683	564.48
1981	18974	864.94
1982	19512	1422.25

1.64 The principal types of goods seized in town seizures were stated to be gold, watches, synthetic fabrics, diamonds and electronic goods such as cassette recorders, videos, calculators etc. and silver.

1.65 Asked to indicate the procedure followed by the Customs Department in conducting raids and searches in seizures in towns and cities, the Ministry of Finance (Department of Revenue) have stated :—

“Searches of premises in towns and cities are normally carried out on the basis of prior information. After checking the veracity of the information so received, the Assistant Collector authorises the Officers by issue of Search Warrant under Section 105 of the Customs Act, 1962 to search the premises. Searches are conducted in the presence of two independent witnesses and the owner or occupant of the premises. The search warrant is shown to the owner of the shop/house and his signature is obtained on the search warrant. Before the actual search is started the Customs officers as well as the witnesses offer themselves to be searched by the owners of the premises. At the end of the search, a Mahazar Nama/Panch Nama is drawn indicating the full details of the goods seized, etc. This is attested by the independent witnesses and also the owner or occupant of the premises. Throughout the search, care is taken to see that the search is conducted by the officers with due decorum and decency so as not to give any room for complaint. A copy of the Panch Nama is also handed over to the owner/occupant and an acknowledgement is obtained. The time of start as well as the completion of the search are also recorded on the Panch Nama. After the search, the executed Search Warrant with the report of the results of the search, is submitted to the Assistant Collector who authorised the search.

Raids on premises known to be storing places of smuggled goods and shops known for keeping and displaying foreign goods for sale are conducted periodically in the manner mentioned above.

In areas adjoining the land frontiers or the coast of India where any Assistant Collector of Customs is not available the Superintendent

of Customs and Central Excise specially empowered by name in this behalf by the Board can also issue a Search Warrant."

1.66 The Committee enquired about the number of raids and seizures in which the Customs authorities were able to establish smuggling through green channel. The Ministry of Finance (Department of Revenue) have in their note stated :

"The Department does not maintain statistics of the number of cases of seizures where it was established that the goods had been smuggled through the Green Channel. However, in order to curb open sale, display and storage of foreign goods, searches/raids are conducted periodically by the Department of the shops and stalls suspected to be selling or displaying foreign goods. The statistics relating to the number of such goods confiscated and trade value of such goods during the last three years upto September, 1983 is given below : -

Year	No. of Raids	Value in lakhs (Rs.)
1981	2172	46.12
1982	2046	121.51
1983 (upto September)	2053	69.98

Enquiries conducted in these cases revealed that these goods are required from different sources partly from baggage cleared either under free allowance or on payment of duty and partly from goods smuggled into India across the sea or land borders. In the absence of records it is not possible to apportion the percentage of source of these seized goods as it would vary from case to case."

1.67 The Committee asked whether the Ministry of Finance could indicate the extent to which smuggling through green and red channels had gone up or come down under the new procedure and the estimate of duty not realised on such goods every year by extrapolating the results of test checks on 10 per cent of passengers. The Ministry of Finance (Department of Revenue) replied :

"The primary object of introducing the green channel system as well as assessment of customs duties in the red channel mainly on the basis of the oral declaration of passengers is to mitigate the hardship, harassment and inconvenience due to delay, to a large number of bonafide passengers whose baggage normally contains goods which would be within the free allowance allowed under the Baggage Rules and to those who are prepared to make a correct declaration of the items carried by them for the purpose of assessment to duty. The revised procedure coupled with the reduction in duty and increase in free allowance has encouraged the passengers to make a true declaration of their content and acted as a disincentive to clandestine removals.

Since the selection for test checks of the baggage is done on suspicion and other factors, there is little scope of any excess goods being

passed without being checked. While the possibility of evasion of duty, can not be ruled out it is not possible to hazard a guess of the extent of such evasion. The results of the test checks vary depending upon the source of the flight, whether originating from a sensitive area or a non-sensitive area. However in large majority of cases of misdeclarations detected among passengers passing through green channel extent of misdeclaration on an average works out to less than Rs. 3000/-. Since in all such cases duty is recovered along with appropriate fine, the question of loss of revenue does not arise. As regards bulk of the passengers who avail the walk through facility and are not subjected to any test check, it would not be proper to draw any inference as to the extent of evasion of duty by extrapolation of the results of the test checks applied to the 10% of the passengers."

Baggage and Import Policy

1.68 The Committee enquired about the approximate annual value of incoming passengers baggage. The Ministry of Finance (Department of Revenue) stated :—

"Since the passengers are cleared on the oral declaration, no record of the value of baggage imported by them is maintained by the Department."

1.69 Asked whether it would not be to the tune of Rs. 300 crores a year, the Secretary, Department of Revenue stated in evidence :—

"May be about that order. We are not collecting statistics that way, but we can reduce the figure."

1.70 To a question if the baggage by and large comprise consumer goods, the witness replied in affirmative.

1.71 Asked whether the country's import policy allowed for import of consumer goods, the witness replied :

"We import industrial machinery and industrial raw-materials. Import of consumer goods is not allowed."

1.72 The witness further stated :

"It is question of understanding. The goods which are directly consumed by the people, those may be food products, those may be consumer durables, these will be classified as consumer goods. Import of these goods is not allowed. It is the import of industrial raw materials components and the equipment which is permitted. Some life saving drugs may be imported."

1.73 On being asked whether the baggage policy therefore, did not conflict with the import policy, the witness deposed :—

"It does not conflict with our import policy, because this import is under very special circumstances. This is the type of import which does not conflict, by and large, with the domestic industry."

1.74 When asked whether the amount of 250-300 crores also would not contribute to the trade deficit, the witness replied.

"Surely, it would."

Tourist Baggage Re-export Forms

1.75 The Audit paragraph reveal that a large number of "Tourists Baggage Re-export Forms" (TBRE) issued in Bombay and Delhi airports during the last five years had remained unpaired. The portwise position of unmatched TBRE forms as indicated by the Ministry of Finance (Department of Revenue) is indicated in the following Table :—

Customs House	1980 to 1982 Total No. of Forms issued	No. of Unmatched TBRE Forms	Percentage
Bombay	2,64,129	54,441	21%
Madurai	No. is not available	1,361	N. A
Madras	-do-	5,533 (upto June 83)	N.A.
Delhi	87,825	12,247	13.6%
Chandigarh	N. A.	3,457	N. A.
Calcutta	8,317	2,083	25%

1.76 The value of goods and the duty involved in the above cases of unmatched TBRE as informed by the Ministry of Finance is shown in the following Table :—

Statement Showing the Amount of duty involved in the cases in Unmatched TBRE Forms

Customs House	No. of TBRE	Value	Duty
Bombay (For 1977 to 1980)	50533	19.93 Crores	28.18 crores
Madurai (1980 to 1982)	1361	37.60 Lakhs	68.40 Lakhs
Madras	-----	Record not available	-----
Delhi (1980 to 1982)	12247	6.4 Crores	12.6 Crores
Chandigarh	-----	Record not available	-----
Calcutta	-----	Not available	-----

1.77. The Committee enquired the procedure in vogue at airports of other countries with regard to TBRE. In reply the Ministry of Finance (Department of Revenue) have stated :—

“In Hong Kong there is no restriction or duty on bringing or taking out any item except tobacco, liquor, and narcotics. There is therefore, no need for customs in Hong Kong to use the TBRE forms. The situation in Singapore also is almost identical. In South Korea a passenger (Tourist) has a choice of paying duty on expensive items or to keep them in bond or to take them inside Korea on the conditions that such goods are taken back for which an entry is made in the Tourist's passport. In Thailand a tourist is allowed to take inside Thailand only such expensive items as are identifiable on the condition of re-export otherwise the items are required to be kept in bond. There is no practice to issue TBRE form in Dubai and other International Airports of U.A.E. as all these ports are free ports.”

In the United Kingdom, high value items are allowed without any control by the proper officer of Customs if he is satisfied that the goods are actually meant for re-export. In other cases where the proper officer is in doubt deposit of duty on the high value articles is taken by the Customs. The duty is, however, promptly refunded at the time of export. In very rare cases where students import high value articles, a formal declaration is made in the passport. Professional equipment is allowed to be imported temporarily under the convention of temporary importation of equipment of 8th June, 1961—Brussels.”

1.78. The Committee desired to know why such a large number of TBRE forms remained unpaired. The Secretary (Department of Revenue) stated in evidence :—

“The fact that it is being utilised to the extent of 80% should not be lost sight of. Any human law is bound to extend this facility. I would also like to appreciate the fact under which circumstances TBRE are collected. It is done when the man is about to leave. You would have noticed that Airline give two hours time for people to report. But people do not always report. Within a short time available at the port you have to go through all the formalities of the airlines of bank clearance, all sorts of things including customs. It does happen quite often the time available is just not adequate to go into all these things. That is why omissions will occur.”

1.79. The Committee desired to know the action taken when tourists were not in possession of TBRE forms at the time of exit from the country, despite indication that TBRE Form was issued to them. In reply the Ministry of Finance (Department of Revenue) have stated :—

“Whenever tourists at the time of exit report loss of TBRE form, the office records are verified, if the port of entry was also the same. If, however, the port of entry is different, the passenger's declaration is usually accepted with reference to the value shown in the passport and the goods presented for verification. Subsequently, the particulars are furnished to the port of issue for verification of the details.”

1.80 Asked what percentage of TBRE forms were declared lost or their existence derived by tourists, the Ministry of Finance (Department of Revenue) stated:—

“No figures are available about the percentage of TBRE forms reported to be lost but this percentage is quite negligible.”

1.81 In this connection, the Chairman, Central Board of Excise and Customs stated during evidence:—

“It is a serially numbered form. Serially numbered form is issued in and there is no indication in the passport. Now, it is for that port to collect it and send it to the port of issue. The port of issue has a complete record. Where the things go wrong, it is not always that the passenger has sent the goods here. He has gone from Madras, for instance Madras has collected TBRE form. Madras port passes it on the port of issue. Normally, forms are collected and counted at the end of the shift and sent in bulk. It is possible that one or two forms collected has not reached the destination.”

1.82. The Committee enquired what special investigations were carried out in respect of unpaired or lost TBRE forms in which gold, currency or jewellery had been recorded. The Ministry of Finance (Department of Revenue) have stated :—

“No TBRE forms are issued for the import of Gold or currency. TBRE forms are issued for the import of jewellery to the tourist passengers and their addresses in India are recorded on the TBRE forms. In the case of unpaired or lost TBRE forms relating to jewellery, references are made to the other ports in the country to ascertain whether the jewellery in question was re-exported from their ports. Notices are issued to the passenger (tourist) on their Indian address as well as foreign address for payment of duty or for furnishing the evidence of re-export of the jewellery in question. Special investigations are carried out only on receipt of specific information about the deliberate misuse of the TBRE facility.”

1.83 The Committee pointed out that a large percentage of un-matched TBRE forms related to jewellery items and enquired if any investigations had been carried out in such cases. In reply the Ministry of Finance (Department of Revenue) have stated in a note:—

“The percentage of TBRE (Unmatched) forms relating to jewellery to the total number of TBRE forms works out to 8% at Bombay Airport and 0.2% at Palam Airport. In the case of unmatched TBRE forms, letters are issued to the other ports enquiring if the passenger left through their port and if so, the details of jewellery exported, if any. Demand notices are also issued at the Indian as well as foreign address of the tourists. Special investigations are carried out only when there are reports about deliberate misuse of the concession.”

1.84 In this connection, the Secretary, Department of Revenue deposed during evidence:—

“We have not specifically gone into this question but I would say, from which areas they are coming is a point for consideration. Not

only such and such airport, but we have to know which is the country of origin. My suspicion in the light of a few cases I came across is that persons of Indian origin, when conditions become difficult in foreign countries, try to transfer capital in the form of jewellery from those places. My impression is, if we try to interfere with the privilege given, it is likely to adversely affect Indians overseas who apprehend some difficulties ahead and try to bring the capital into the country. This may not be true in all cases but this is substantially true in a large number of cases."

1.85 The Committee enquired if any departmental action had been taken against any one in the customs Department for loss of TBRE forms, the Secretary Department of Revenue stated :—

"I am told, nobody has been penalised".

1.86 The audit paragraph stated that though only 8 per cent of TBRE forms related to jewellery, 60 per cent of such 8 per cent forms were not matched and in each of them jewellery not less than Rs. 10,000 was not re-exported nor was duty paid thereon. Asked why the Ministry had not viewed the audit point as possible misuse of TBRE facility in respect of jewellery, the Ministry of Finance (Department of Revenue) have stated in a note :—

"Mere unmatching of TBRE form is not necessarily an indication of loss of revenue. An endorsement is made on the passport of a passenger if he brings into India any goods which are for re-export. This endorsement is checked at the time of his departure and it is ordinarily not possible that a passenger would be able to escape scrutiny. TBRE form may remain unmatched because the passenger leaves from a different port and the forms are not sent or these are misplaced."

1.87 The Committee enquired if the very fact that Rs. 8.8 crores worth jewellery comes into India every year without payment of duty did not call for investigation specially when total value of unmatched forms in all years 1977 to 1980 in Bombay had been estimated by the Collector at only Rs. 19.03 crores, the Ministry replied :—

"It would not be correct to assume that the entire amount of jewellery shown in unmatched TBRE Forms which has actually come into India has not been re-exported. However, in view of the social set up in India and having regard to the fact that jewellery is easy to carry and it may also help some of them to start life afresh in India, it perhaps is inevitable that some amount of jewellery brought under this facility, particularly by Indians, may be retained in India. However, in view of the factors spelt out above, it would not be possible to arrive at any accurate estimate of the extent of jewellery not re-exported."

1.88 As per Customs Act, "baggage" includes unaccompanied baggage but not motor vehicles. Declaration of baggage made by the passengers arriving at any port or airport may be in writing or oral. The accompanied baggage both by Air and Sea is cleared on oral declaration. For this purpose, passengers without any dutiable articles in

their baggage walk through green channel and those with dutiable articles are assessed to duty on the basis of their declaration in the red channel. In cases of doubt, physical examination is conducted by preventive officers. Unaccompanied baggage is, however, cleared on a written declaration which contains details about the number of packages etc. On the basis of the declaration and examination, duty is assessed and collected and baggage cleared from customs control. The revenue from baggage has registered a steep increase over the years. It amounted to Rs. 42.39 crores in 1978, Rs. 57.98 crores in 1979, Rs. 85.53 crores in 1980 and Rs. 121.93 crores in 1981 respectively.

1.89 The rates of duty on passengers baggage and the exemption limit for duty free baggage have undergone changes from time to time. In 1978 the duty free allowance was raised to Rs. 1,000 and on goods valuing upto Rs. 2,000 in excess thereof, duty was leviable at 120 per cent ad valorem. The rate of duty was changed from 120 per cent to 150 per cent on 19 June, 1980. From 15 July, 1980, there was further liberalisation in that baggage in excess of Rs. 3,000 was also cleared charging duty effectively at 320 per cent instead of treating such imports as unauthorised, with the object of doing a way with the time consuming process of adjudication as also to secure quick clearance of passengers arriving at airports. The idea was to avoid unnecessary hardship or harassment to passengers. The purpose of high rates of duty in excess of the duty free allowance was to contain the quantities to be brought by the passengers as baggage. Revenue was also a consideration but only a relatively minor one. Minor increases were made in the duty in the years 1981 and 1982. From 1 March 1983 the duty structure has been considerably liberalised in pursuance of the recommendations of a study group on increasing the flow of remittances and non-resident investment, submitted to Government in October, 1982. The higher slab of duty was reduced from 330 per cent to 235 percent in certain cases. Also, the general free allowance limit was increased from Rs. 1,000 to Rs. 1,250.

1.90 The Committee have been informed that the goods allowed to be imported as baggage are generally for personal use or for family use or for gifting away to relatives and friends. When goods are brought in commercial quantities or for trade purposes, the passenger has not only to pay duty at the prevailing rates but also fine and penalty may be imposed for breach of import trade control requirements. Further, the sale of goods imported as baggage is not allowed in terms of ITC public Notice as well as Customs Notification dated 22 August, 1975.

1.91 The Committee are surprised to find that while the law clearly prohibits sale of goods imported as baggage within a specified period, Government do not have adequate mechanism to ensure that such sales do not take place. There is no consolidated record of all goods cleared as baggage even in the case of those charged to duty. It is common knowledge that a large number of imported items are freely sold in the open market in most metropolitan cities and border towns. Evidently these goods are either smuggled goods or goods which have been brought as baggage. If the goods have been imported

as baggage, they are not allowed to be sold under the law for a specified period. However, as Government have no record of baggage goods they cannot check their sale in the Indian market and take penal action in terms of the notification dated 22 August 1975. The Ministry of Finance have contended that the notification acts as a deterrent both legal as well as psychological to all persons who intend selling goods imported by them as baggage. The Ministry have, however, not been able to cite a single case booked for violation of the orders during the past eight years. Thus, the only conclusion that can be drawn is that the notification dated 22 August, 1975 has failed to make any impact or serve the objective for which it was issued.

1.92 The Committee note that the value of smuggled goods seized by customs authorities amounted to Rs. 30.94 crores, Rs. 40.42 crores, Rs. 52.85 crores, Rs. 39.70 crores, and Rs. 66.39 crores during each of the years 1978 to 1982 respectively. Out of these, the values of goods seized in raids and searches in towns/cities during the corresponding period were Rs. 3.66 crores, Rs. 6.48 crores, Rs. 5.64 crores, Rs. 8.65 crores and Rs. 14.22 crores, respectively. The principal items seized were gold, watches, synthetic fabrics, diamonds, electronic goods like cassette recorders, videos, calculators, etc. Obviously, the figures of seizures indicate only a tip of the iceberg. Even so, they would indicate that over the years, the menace of smuggling and its adverse impact on our economy are on the increase. The Ministry of Finance have pleaded that in the absence of records of baggage it is not possible to apportion the source of smuggled goods seized in raids and searches. However, the Ministry have conceded that the enquiries conducted in those cases had revealed that part of such goods were those cleared as baggage either under free allowance or on payment of duty. Considering that the percentage of value of seizures in towns and cities forms a substantial part of the total seizures and that the goods seized in town seizures are generally of the same kind as are usually brought as baggage, the Committee cannot but conclude that the loopholes in Baggage Rules supplement the adverse impact on the economy caused by smuggling.

1.93 In this connection, the Committee note that out of total of 21.53 lakh incoming passengers in 1982, 13.01 lakhs passengers walked through green channel while 8.52 lakhs opted for red channel. In 1983, out of 17.36 lakhs incoming passengers whose details were available, 10.84 lakhs opted for green and 6.52 lakhs opted for red channels. The Committee are informed that a test check of not exceeding 10% is carried out before the passenger leaves the customs area. The number of misdeclarations detected by the department as a result of such test-checks (of passengers coming through both green and red channels) during 1981, 1982 and 1983 (upto September) were 7,694, 4,797, and 8700 respectively and the corresponding c.i.f. value of misdeclared goods were Rs. 2.47 crores, Rs. 3.86 crores and Rs. 3.20 crores respectively. Evidently, even the fractional test checks conducted by the department indicated that misdeclarations under the present set up are fairly widespread. In view of these facts the Committee do not agree with the contention of the Ministry that adequate checks exist to prevent smuggling by misdeclaration or non-declaration of dutiable

baggage. The Committee recommend that Government should adopt such legal and psychological measures as will prove really effective instead of the present system and manner of its implementation by customs staff which is lacking in its psychological impact. The Committee regret that the customs department have not adopted really effective methods for getting reliable feed back data designed to keep under continuous monitoring the psychological impact of the systems and approaches adopted by it.

1.94 The Committee are surprised to note that no separate records are maintained in respect of the total number of passengers opting for green and red channels at Trivandrum Airport, Amritsar Land Customs Station and Bombay Seaport. This would clearly show that even in the matter of collecting and utilising the basic data, the department has still to go a long way. The Committee recommend that the Ministry should adopt a more dynamic and effective data generation and retrieval system in all customs station without which control through psychological impact can hardly become a reality.

1.95 The Committee find that in the absence of any reliable data on baggage imports, it would be a sheer guess-work to assess the impact of baggage imports on the indigenous economy or any particular industry. According to the Ministry of Finance 'the impact can only be guessed only on the basis of trends and the total amount of revenue collections from baggage. The Committee are informed that the annual value of baggage imports may be roughly about Rs. 300 crores. The Ministry of Finance, have also admitted that certain industries like electronics have in their representations to Government pointed out the adverse effect of baggage liberalisations on indigenous industries. Keeping in view the representations of the electronics industry and based on the recommendations of the Department of Electronics, Government decided in August, 1983 to grant a series of concessions to enable the electronics industry to attain economic viability and a competitive edge. Ironically, these concessions involved a total annual revenue sacrifice of Rs. 98 crores to the exchequer by way of customs and excise duties. While the Committee agree that undue harassment and delay in clearance of incoming passengers including tourists have to be removed, the impact of the liberalised baggage rules on the indigenous industry has also to be taken into account. The Committee would like Government to ensure that no indigenous industry is adversely affected as a result of liberalisation of baggage rules.

1.96. The Committee are concerned that after the liberalisation of Baggage Rules in March 1983, a new class of passengers, *vi.*, hired passengers indulged in carrier trade, has come into existence. These persons visit India's neighbouring countries from time to time and bring foreign goods in great demand in this country. Because of the wide differences in the prices of certain goods in those countries and in this country, these persons are able to make huge profits even after covering their tour expenses and paying duty as per baggage

rules. The Ministry of Finance have admitted that such cases have come to their notice on certain routes, particularly Sri Lanka-India and Maldives-India routes. It was, therefore, decided to reduce the general free allowance from Rs. 1250 to Rs. 300 for passengers arriving from Sri Lanka and Maldives. From the figures furnished by the Ministry of Finance, the Committee find that while the passenger traffic to Sri Lanka and Maldives recorded a substantial increase to 56671 during 1 March to 8 June 1983 over the figures of 43,816 during the corresponding period in 1982, it suddenly came to as low a level as 18,030 during the period 9 June 1983 to 30 September, 1983. The overall collection of duty per capita has also decreased from 8 June 1983. The Committee are not convinced with the replies of the Ministry that per capita increase in the duty realisation from baggage (even when rates of duty were reduced), is not indicative of increase in import of baggage with consequential adverse impact on economy. The figures relating to Sri Lanka and Maldives clearly disprove this. The Committee are clearly of the view that the extent of abuse of liberalisation is on the increase. The Committee would like the department to collect relevant data relating to baggage import continuously and to review it and act immediately to prevent abuse of the liberalised baggage rules as and when the situation so warrants.

1.97 In the opinion of the Committee, the existence of carrier trade is made possible by a lacuna in the Baggage Rules, according to which free duty allowance is the same per trip irrespective of the fact whether an individual undertakes only one foreign trip in a year or a number of such trips. The Committee recommend that in order to obviate the recurrence of misuses of baggage facilities, the Ministry of Finance should examine the feasibility of fixing a monetary ceiling beyond which a person should not be allowed to bring duty free foreign goods as baggage during a year, irrespective of the number of his visits.

1.98 The Committee note that the Tourist Baggage Rules provide for import, temporarily of personal effects of bonafide tourists, free of duty, provided they are re-exported when the tourists leave India. Articles of high value are passed free of duty on obtaining an undertaking in writing from the tourist that he will re-export them out of India, or pay duty leviable thereon on failure to do so. Such articles are entered in a "Tourists Baggage Re-export Form" (TBRE) a copy of which is given to the tourist, to be surrendered by him at the port or airport of departure from India. The re-export forms collected from the tourists at the port or airport of their departure from India are sent after suitable endorsement to the port or airport of issue of the TBRE form for pairing. This ensures that such articles of high value have been re-exported and have not been disposed of by the tourist within the country unauthorisedly.

1.99 The Committee are concerned to note that 50,533 TBRE forms issued from Bombay Customs House between 1977 and 1980 valuing

Rs. 19.93 crores and involving duty of Rs. 28.18 crores could not be paired. Similarly, 12,247 forms issued from the Delhi Customs House between 1980 and 1982 valuing Rs. 6.4 crores and involving Rs. 12.6 crores duty also remained unpaired. The Committee regret to point out that statistics of number of TBRE issued and the unpaired TBRE forms relating to certain Customs Houses were not furnished to the Committee on the plea that records were not available. This is really strange as the number of TBRE forms being numbered, there is no reason why the record of these forms should not have been available in the relevant Customs House. The Committee feel that the whole issue is not above suspicion.

1.100 What is particularly disturbing is that 60 percent of the unpaired TBRE forms issued in Bombay in 1980 pertained to import of gold jewellery valuing more than Rs. 10,000 in each case, amounting in all to at least Rs. 8.8 crores of jewellery imported in that year, without payment of duty. More distressingly, there had been no departmental follow-up of unmatched TBRE forms even on a percentage basis. According to the Ministry, the department looks into if a complaint of misuse comes in and only then an investigation is carried out. The Committee cannot but express their concern over this unsatisfactory state of affairs. During evidence, the Secretary, Department of Revenue admitted that the Ministry had not specifically gone into the issue. It was also admitted that departmental action had not been taken against even a single employee so far for the loss of TBRE forms. The Committee cannot but conclude that the increasing use of T.B.R.E. procedure for importing jewellery, coupled with the failure to implement the procedure, had given ample scope to smuggling through this method. The Committee are not convinced with the argument of the Ministry of Finance that this facility was being utilised by Indians residing abroad to help them transfer their assets to India in the form of jewellery. If so, government should include a provision in the rules to permit such imports. The Committee recommend that the Ministry of Finance should investigate the reasons for high import of jewellery through TBRE forms at Bombay and take steps to prevent abuse of this facility.

1.101 The facts stated in the foregoing paragraphs clearly bring out inadequacy in the system of assessment and collection of duty from passengers' baggage. The present system does not provide for maintaining even basic data of baggage/goods. The Ministry should evolve a system whereby primary data are recorded without hampering clearance of passengers and causing harassment to the travelling public. This is imperative in order to assess the impact of the policy in regard to baggage goods on the economy in all its ramifications. The Committee therefore recommend that the Ministry of Finance should supplement the present system of assessment and collection of duty on baggage goods including check exercised by the T.B.R.E. procedure by recording and using relevant data as an additional measure of a macro control. This would in no way cause harassment in individual cases. While Government should ensure that the baggage concessions are availed of by the genuine travelling public the Committee are anxious that, there should be a

system of macro control so that unscrupulous elements are kept in check and the abuse of the liberalised baggage facilities by them does not result in detriment to the country's economy.

NEW DELHI

30 March, 1984

10 Chaitra, 1906 (S)

SUNIL MAITRA

Chairman

Public Accounts Committee.

APPENDIX I

(Vide Para 1.51)

(TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRA-
ORDINARY PART I SECTION I)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE
(**Import Trade Control**)

PUBLIC NOTICE NO. 27-ITC (PN-80, New Delhi, the 15th July, 1980

(As Amended By Public Notice No. 44-ITC(PN)/80, dated 17-11-1980).

SUBJECT. – *Import of Goods as personal baggage.*

Attention is invited to the Ministry of Finance, Department of Revenue, New Delhi, Notification No. 101-Cus. dated the 16th May, 1978, No. 102-Cus., dated the 16th May, 1978, No. 103-Cus., dated the 16th May, 1978, and No. 105-Cus., dated the 16th May, 1978 applicable to passengers arriving from any country other than Nepal.

2. Sub-Clause 11(1)(g) of the Imports Control Order, 1955 as amended already exempts from the operation of the said order the goods imported as passenger baggage to the extent permissible under the Baggage Rules for the time being in force.

3. A non-tourist passenger may also be allowed to import as a part of his baggage without an import licence, but on payment of customs duty any items of personal or household effects, for his own use or for use of his family :

Provided that the import of a fire-arm shall be subject to the conditions that :—

- (i) The passenger has not imported or otherwise acquired a foreign-made fire-arm of the same category during the last ten years ;

*Explanation:—*For this purpose, revolver and pistol will be considered as firearms of one category and gun and rifle as firearm of another category ;

- (ii) In the case of revolver and pistol, they are of .32 or smaller bore ;
and

- (iii) The firearm shall not be sold, gifted or given to a retainer or otherwise parted with for a period of five years from the date of clearance.

4. A tourist of Indian origin, whether holding an Indian passport or a foreign passport, who is normally resident abroad, may be allowed to import

as a part of his baggage, without an import licence, but on payment of customs duty any items of personal or household effects for presentation as gifts or souvenirs to friends and relatives.

Provided that the import of firearm shall be subject to the conditions that :—

- (i) The passenger has not imported a foreign-made firearm of the same category during the last ten years ;

Explanation.—For this purpose, revolver and pistol will be considered as firearm of one category and gun and rifle as firearm of another category ;

- (ii) in the case of revolver and pistol, they are of .32 or smaller bore ; and

- (iii) The firearm shall not be presented as gift to a person who has imported or acquired a foreign made firearm of the same category during the last ten years. (The person receiving the gift shall also ensure that he is not violating this condition).

5. The above concessions may be allowed provided the proper officer of the customs is satisfied that the items are being imported for *bona-fide* use of the passenger or his family or for making a gift or souvenir, as the case may be, and subject to the condition that they shall not be sold, displayed, advertised or offered for sale or displayed in a shop until :

- (a) In the case of firearm and TV, they have been used for a period of not less than five years from the date of clearance by such person, or passenger or member of the crew; or
- (b) In the case of other goods; when the market price is depreciated to less than 50% of their market price when new.

6. In addition, clearance of one dog and other domestic, pets like cats and birds in a limited number may be allowed without Import Trade Control restrictions on furnishing the following health certificates to the Customs authorities:—

(i) A health certificate from a veterinary officer authorised to issue a valid certificate by the Government in the country of export to the effect that the dog imported is free from Aujosky's disease, Distemper, Rabies, Leishmiasis and leptospirosis and in the case of cats from Rabies and Distemper.

(ii) In the case of import of dogs and cats originating, from country where Rabies infection is known to exist, a health certificate containing a record of vaccination, vaccine used, brew of the vaccine and the name of production laboratory and to the effect that the dog/cat was vaccinated against rabies more than one month, but within 12 months prior to actual embarkation with nervous tissue vaccine or within 36 months with chicken embryo vaccine, both the vaccines having previously passed satisfactory potency tests.

(iii) In the case of parrots, a certificate to the effect that the parrots were subjected to a compliment fixation test for psittacosis with negative results within 30 days prior to actual embarkations.

7. This public Notice is in supersession of the earlier Public Notice of the Ministry of Commerce No. 34-ITC (PN. 78) dated 16-5-78 as amended by 58-ITC (PN)/79 dated 13-11-1979.

EXPLANATION:—In the Public Notice the term 'baggage' will have the same meaning as is assigned to it in sub-clause (3) of Section 2 of the Customs Act, 1962.

APPENDIX II

(Vide Para 1.51)

(TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i)
OF THE GAZETTE OF INDIA, EXTRAORDINARY, DATED 22ND
AUGUST, 1975/31 SRAVANA, 1897 (SAKA)

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

the 22nd AUGUST, 1975
New Delhi, 31 SRAVANA, 1897 (SAKA)

NOTIFICATION CUSTOMS

G.S.R. No. 453 (E)—In exercise of the powers conferred by sub-section(2) of section 79 of the Customs Act, 1962 (52 of 1962) and in supersession of the Baggage(Conditions of Exemption) Rules 1963 [Notification of the Govt. of India in the Ministry of Finance (Department of Revenue and Insurance) No. 19 dated the 23rd January 1963] the Central Government hereby makes the following rules, namely:—

1. These rules may be called the Baggage (Conditions of Exemption) Rules, 1975.

2. Where any goods in the baggage of a passenger or a member of the crew are exempted under section 79 of the Customs Act, 1962 (52 of 1962) from payment of import duty leviable thereon, the exemption shall be subject to the condition that such goods shall not be sold, displayed, advertised or offered for sale or displayed in shop;

- (a) and in the case of fire-arm also that such fire-arm shall not be gifted, or given to a retainer or other-wise parted with, until such fire-arm has been used for a period not less than ten years from the date of clearance by such person or passenger or member of the crew, or
- (b) and in the case of a T. V. set, also that such a T. V. set shall not be gifted or otherwise parted with, until such T.V. set has been used for a period of not less than five years from the date of clearance by such person or passenger or member of the crew, or
- (c) and in the case of any other goods, until the market price of such goods has depreciated to less than fifty per cent of their market price when new.

Sd/-(V.S. Naik)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

No. 84-Cus/F. No. 497/2/74-Cus. VI

To

The Manager, Govt. of India Press,
Mayapuri, Ring Road, New Delhi.

APPENDIX—III

Statement of Conclusions/Recommendations

Sl. No.	Para No.	Ministry/Department Concerned	Conclusions/Recommendations
1	2	3	4
1	1-88	Ministry of Finance (Department of Revenue)	As per Customs Act, "baggage" includes unaccompanied baggage but not motor vehicles. Declaration of baggage made by the passengers arriving at any port or airport may be in writing or oral. The accompanied baggage both by Air and Sea is cleared on oral declaration. For this purpose, passengers without any dutiable articles in their baggage walk through green channel and those with dutiable articles are assessed to duty on the basis of their declaration in the red channel. In cases of doubt, physical examination is conducted by preventive officers. Unaccompanied baggage is, however, cleared on a written declaration which contains details about the number of packages etc. On the basis of the declaration and examination, duty is assessed and collected and baggage cleared from customs control. The revenue from baggage has registered a steep increase over the years. It amounted to Rs. 42.39 crores in 1978, Rs. 57.98 crores in 1979, Rs. 85.53 crores in 1980 and Rs. 121.93 crores in 1981 respectively.
2	1-89	Do.	The rates of duty on passengers baggage and the exemption limit for duty free baggage have undergone changes from time to time. In 1978 the duty free allowance was raised to Rs. 1,000 and on goods valuing upto

Rs. 2,000 in excess thereof, duty was leviable at 120 per cent ad valorem. The rate of duty was changed from 120 per cent to 150 per cent on 19 June, 1980. From 15 July, 1980, there was further liberalisation in that baggage in excess of Rs. 3,000 was also cleared charging duty effectively at 320 per cent instead of treating such imports as unauthorised, with the object of doing away with the time consuming process of adjudication as also to secure quick clearance of passengers arriving at airports. The idea was to avoid unnecessary hardship or harassment to passengers. The purpose of high rates of duty in excess of the duty free allowance was to contain the quantities to be brought by the passengers as baggage. Revenue was also a consideration but only a relatively minor one. Minor increases were made in the duty in the years 1981 and 1982. From 1 March, 1983 the duty structure has been considerably liberalised in pursuance of the recommendations of a study group on increasing the flow of remittances and non-resident investment submitted to Government in October, 1982. The higher slab of duty was reduced from 330 per cent to 235% except in certain cases. Also, the general free allowance limit was increased from Rs. 1,000 to Rs. 1,250.

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3 1.90 Do.

The Committee have been informed that the goods allowed to be imported as baggage are generally for personal use for family use or for gifting away to relatives and friends. When goods are brought in commercial quantities or for trade purposes, the passenger has not only to pay duty at the prevailing rates but also fine and penalty may be imposed for breach of import trade control requirements. Further, the sale of goods imported as baggage is not allowed in terms of ITC public Notice as well as Customs Notification dated 22 August, 1975.

4 1.91 Do.

The Committee are surprised to find that while the law clearly prohibits sale of goods imported as baggage within a specified period, Government do not have adequate mechanism to ensure that such sales do not take place. There is no consolidated record of all goods cleared as baggage even in the case of those charged to duty. It is common knowledge that a large number

of imported items are freely sold in the open market in most metropolitan cities and border towns. Evidently these goods are either smuggled goods or goods which have been brought as baggage. If the goods have been imported as baggage, they are not allowed to be sold under the law for a specified period. However, as Government have no record of baggage goods they cannot check their sale in the Indian market and take penal action in terms of the notification dated 22 August, 1975. The Ministry of Finance have contended that the notification acts as a deterrent both legal as well as psychological to all person who intend selling goods imported by them as baggage. The Ministry have, however, not been able to cite a single case booked for violation of the orders during the past eight years. Thus, the only conclusion that can be drawn is that the notification dated 22 August, 1975 has failed to make any impact or serve the objective for which it was issued.

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1-92

Ministry of Finance
(Deptt. of Revenue)

The Committee note that the value of smuggled goods seized by customs authorities amounted to Rs. 30.94 crores, Rs. 40.42 crores, Rs. 52.85 crores, Rs. 39.70 crores, and Rs. 66.39 crores during each of the years 1978 to 1982 respectively. Out of these, the values of goods seized in raids and searches in towns/cities during the corresponding period were Rs. 3.66 crores, Rs. 6.48 crores, Rs. 5.64 crores, Rs. 8.65 crores and Rs. 14.22 crores respectively. The principal items seized were gold, watches, synthetic fabrics, diamonds, silver, electronic goods like cassette recorders, videos, calculators, etc. Obviously, the figures of seizures indicate only a tip of the iceberg. Even so, they would indicate that over the years, the menace of smuggling and its adverse impact on our economy are on the increase. The Ministry of Finance have pleaded that in the absence of records of baggage it is not possible to apportion the source of smuggled goods seized in raids and searches. However, the Ministry have conceded that the enquiries conducted in these cases had revealed that part of such goods were those cleared as baggage either

under free allowance or on payment of duty. Considering that the percentage of value of seizures in towns and cities forms a substantial part of the total seizures and that the goods seized in town seizures are generally of the same kind as are usually brought as baggage, the Committee cannot but conclude that the loopholes in the Baggage Rules supplement the adverse impact on the economy caused by smuggling.

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Do.

In this connection, the Committee note that out of total of 21.53 lakh incoming passengers in 1982, 13.01 lakhs passengers walked through green channel while 8.52 lakhs opted for red channel. In 1983, out of 17.36 lakhs incoming passengers whose details were available, 10.84 lakhs opted for green and 6.52 lakhs opted for red channels. The Committee are informed that a test check of not exceeding 10% is carried out before the passenger leaves the customs area. The number of misdeclarations detected by the department as a result of such test-checks (of passengers coming through both green and red channels) during 1981, 1982 and 1983 (Upto September) were 7,694, 4,797 and 8700 respectively and the corresponding c.i.f. value of misdeclared goods were Rs. 2.47 crores, Rs. 3.86 crores and Rs. 3.20 crores respectively. Evidently, even the fractional test checks conducted by the department indicate that misdeclarations under the present set up are fairly widespread. In view of these facts the Committee do not agree with the contention of the Ministry that adequate checks exist to prevent smuggling by misdeclaration or non-declaration of dutiable baggage. The Committee recommend that Government should adopt such legal and psychological measures as will prove really effective instead of the present system and manner of its implementation by customs staff which is lacking in its psychological impact. The Committee regret that the customs department have not adopted really effective methods for getting reliable feed back data designed to keep under continuous monitoring the psychological impact of the systems and approaches adopted by it.

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1	2	3	4
7	1 94	Ministry of Finance Department of Revenue	<p>The Committee are surprised to note that no separate records are maintained in respect of the total number of passengers opting for green and red channels at Trivandrum Airport, Amritsar Land Customs Station and Bombay Seaport. This would clearly show that even in the matter of Collecting and utilising the basic data, the department has still to go along way. The Committee recommend that the Ministry should adopt a more dynamic and effective data generation and retrieval system in all customs station, with out which control through psychological impact can hardly become a reality.</p>
8	1 95	Do.	<p>The Committee find that in the absence of any reliable data on baggage imports, it would be a sheer guess-work to assess the impact of baggage imports on the indigenous economy or any particular industry. According to the Ministry of Finance, the impact can be only guessed only on the basis of trends and the total amount of revenue collections from baggage. The Committee are informed that the annual value of baggage imports may be roughly about Rs. 300 crores. The Ministry of Finance have admitted that certain industries like electronics have in their representations to Government pointed out the adverse effect of baggage liberalisations on indigenous industries. Keeping in view the representations of the electronics industry and based on the recommendations of the Department of Electronics, Government decided in August, 1983 to grant a series of concessions to enable the electronics industry to attain economic viability and a competitive edge. Ironically, these concessions involved a total annual revenue sacrifice of Rs. 98 crores to the exchequer by way of customs and excise duties. While the Committee agree that undue harassment and delay in clearance of incoming passengers including tourists have to</p>

be removed, the impact of the liberalised baggage rules on the indigenous industry has also to be taken into account. The Committee would like Government to ensure that no indigenous industry is adversely affected as a result of liberalisation of baggage rules.

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Do.

The Committee are concerned that after the liberalisation of Baggage Rules in March 1983, a new class of passengers, viz., hired passengers, indulging in carrier trade, has come into existence. These persons visit India's neighbouring countries from time to time and bring foreign goods in great demand in this country. Because of the wide differences in the prices of certain goods in those countries and in this country, these persons are able to make huge profits even after covering their tour expenses and paying duty as per baggage rules. The Ministry of Finance have admitted that such cases have come to their notice on certain routes, particularly Sri Lanka—India and Maldives—India routes. It was, therefore, decided to reduce the general free allowance from Rs. 1250 to Rs. 300 for passengers arriving from Sri Lanka and Maldives. From the figures furnished by the Ministry of Finance, the Committee find that while the passenger traffic to Sri Lanka and Maldives recorded a substantial increase to 56,671 during 1 March to 8 June, 1983 over the figures of 43,816 during the corresponding period in 1982, it suddenly came to as low a level as 18,030 during the period 8 June 1983 to 30 September, 1983. The overall collection of duty per capita has also decreased from 8 June 1983. The Committee are not convinced with the replies of the Ministry that per capita increase in the duty realisation from baggage (even when rates of duty were reduced), is not indicative of increase in import of baggage with consequential adverse impact on economy. The figures relating to Shrilanka and Maldives clearly disprove this. The Committee are clearly of the view that the extent of abuse of liberalisation is on the increase. The Committee would like the department to collect relevant data relating to baggage import continuously and to review it and act immediately to prevent abuse of the liberalised baggage rules as and when the situation so warrants.

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In the opinion of the Committee, the existence of carrier trade is made possible by a lacuna in the Baggage Rules, according to which free duty allowance is the same per trip irrespective of the fact whether an individual undertakes only one foreign trip in a year or a number of such trips. The Committee recommend that in order to obviate the recurrence of misuses of baggage facilities, the Ministry of Finance should examine the feasibility of fixing a monetary ceiling beyond which a person should not be allowed to bring duty-free foreign goods as baggage during a year, irrespective of the number of his visits.

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Do.

The Committee note that the Tourist Baggage Rules provide for import, temporarily of personal effects of *bonafide* tourists, free of duty, provided they are re-exported when the tourists leave India. Articles of high value are passed free of duty on obtaining an undertaking in writing from the tourist that he will re-export them out of India, or pay duty leviable thereon on failure to do so. Such articles are entered in a "Tourists Baggage Re-export Form" (TBRE) a copy of which is given to the tourist, to be surrendered by him at the port or airport of departure from India. The re-export forms collected from the tourists at the port or airport of their departure from India are sent after suitable endorsement to the port or airport of issue of the TBRE form for pairing. This ensures that such articles of high value have been re-exported and have not been disposed of by the tourist within the country unauthorisedly.

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Do.

The Committee are concerned to note that 50,533 TBRE forms issued from Bombay Customs House between 1977 and 1980 valuing Rs. 19.93 crores and involving duty of Rs. 28.18 crores could not be paired. Similarly, 12,247 forms issued from the Delhi Customs House between 1980 and 1982 valuing Rs. 6.4 crores and involving R. 12.6 crores duty also remained unpaired.

The Committee regret to point out that statistics of number of TBRE issued and the unpaired TBRE forms relating to certain Customs Houses were not furnished to the Committee on the plea that records were not available. This is really strange as the number of TBRE forms being numbered, there is no reason why the record of these forms should not have been available in the relevant Customs House. The Committee feel that the whole issue is not above suspicion.

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Do.

What is particularly disturbing is that 60 per cent of the unpaired TBRE forms issued in Bombay in 1980 pertained to import of gold jewellery valuing more than Rs. 10,000 in each case, amounting in all to at least Rs. 8.8 crores of jewellery imported in that year, without payment of duty. More distressingly there had been no departmental follow-up of unpaired TBRE forms even on a percentage basis. According to the Ministry, the department looks into if a complaint of misuse comes in and only then an investigation is carried out. The Committee cannot but express their concern over this unsatisfactory state of affairs. During evidence, the Secretary, Department of Revenue admitted that the Ministry had not specifically gone into the issue. It was also admitted that departmental action had not been taken against even a single employee so far for the loss of TBRE forms. The Committee cannot but conclude that the increasing use of TBRE procedure for importing jewellery, coupled with the failure to implement the procedure, had given ample scope to smuggling through this method. The Committee are not convinced with the argument of the Ministry of Finance that this facility was being utilised by Indians residing abroad to help them transfer their assets to India in the form of jewellery. If so, Government should include a provision in the rules to permit such imports. The Committee recommend that the Ministry of Finance should investigate the reasons for high import of jewellery through TBRE forms at Bombay and take steps to prevent abuse of this facility.

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The facts stated in the foregoing paragraphs clearly bring out inadequacy in the system of assessment and collection of duty from passengers' baggage. The present system does not provide for maintaining even basic data of baggage/goods. The Ministry should evolve a system whereby primary data are recorded without hampering clearance of passengers and causing harassment to the travelling public. This is imperative in order to assess the impact of the policy in regard to baggage goods on the economy in all its ramifications. The Committee therefore recommend that the Ministry of Finance should supplement the present system of assessment and collection of duty on baggage goods including check exercised by the TBRE procedure by recording and using relevant data as an additional measure of macro control. This would in no way cause harassment in individual cases. While Government should ensure that the baggage concessions are availed of by the genuine travelling public the Committee are anxious that, there should be a system of macro control so that unscrupulous elements are kept in check and the abuse of the liberalised baggage facilities by them does not result in detriment to the country's economy.

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23

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